

Rec. 8/18/22

COPY

LAW OFFICES  
**ERIC L. PETERS**  
(508) 693-8830  
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Street Address:  
3 MARINER'S LANDING  
EDGARTOWN, MA 02539

Mailing Address:  
POST OFFICE BOX 1117  
EDGARTOWN, MA 02539

August 11, 2022

Daniel F. Gilmore, Chief  
Wetlands and Waterways Program  
Bureau of Water Resources  
Mass DEP Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA 02347

**Certified Mail**  
**Return Receipt Requested**  
**(#7021 2720 0003 1123 2544)**

**Request for Superseding Order of Conditions**  
**DEP File No. SE12-891**  
**Applicant: RMJ Dock, LLC**  
**Re: Property: 16 Harbor Hill Road, Menemsha, Chilmark, MA 02535**

Dear Mr. Gilmore:

I represent Donald G. Smith, the owner of 16 Harbor Hill Road, being Lot M as shown on Land Court Plan No. 7706-F and described in Certificate of Title No. 11907 (the "Owner" and the "Property").

On August 2, 2022, the Chilmark Conservation Commission issued an Order of Conditions (the "Order of Conditions" to RMJ Dock, LLC for the proposed project located at the Property for the construction of stairs from the top of the coastal bank to the deck of an existing deck at the bottom of the coastal bank, all on the Property and at Menemsha Basin in Chilmark, as shown on the site plan dated May 31, 2022, prepared by Vineyard Land Surveying and Engineering (the "Proposed Project").

On behalf of the Owner, I respectfully request that the Department of Environmental Protection ("DEP") review the Proposed Project and issue a Superseding Order of Conditions denying the construction of the Proposed Project.

A more detailed explanation concerning the basis for this appeal may be found in the "Objections to the Order of Conditions (SE12-891)" filed with the Request for Department Fee Transmittal attached hereto as Exhibit A.

Sincerely,



Eric L. Peters

Enclosures

cc: Mr. Donald G. Smith

Chilmark Conservation Commission, P.O. Box 119, Chilmark, MA 02535 ✓  
(via certified mail #7021 2720 0003 1123 2551)

RMJ Dock, LLC c/o Vineyard Land Surveying & Engineering, P.O. Box 421,  
West Tisbury, MA 02575(via certified mail #7021 2720 0003 1123 2568)

Attachments:

Exhibit A - Request for Department Fee Transmittal Form and Check and  
Objections to the Order of Conditions (SE12-891)

Exhibit B - Notice of Intent

Exhibit C - Order of Conditions

Exhibit D - Letter to Chilmark Conservation Commission for Public Hearing July 19, 2022

**Exhibit A**

**Request for Department Fee Transmittal Form and Check**



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number: **4**  
 SE12-891  
 Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Request Information**

1. Location of Project

<u>16 Harbor Hill Road</u>	<u>Chilmark, MA 02535</u>
a. Street Address	b. City/Town, Zip
<u>9355</u>	<u>\$120.00</u>
c. Check number	d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Donald G. Smith  
 Name  
c/o Robin Smith, P.O. Box 238  
 Mailing Address  
Chilmark MA 02535  
 City/Town State Zip Code  
508-693-8830 508-627-3781 ericlpetersesq@aol.com  
 Phone Number Fax Number Email Address

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

RMJ Dock, LLC, c/o Vineyard Land Surveying and Engineering  
 Name  
P.O. Box 421  
 Mailing Address  
West Tisbury MA 02575  
 City/Town State Zip Code  
508-693-3774 reid@vlse.net  
 Phone Number Fax Number Email Address

4. DEP File Number:

SE12-891

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



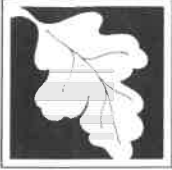
**B. Instructions**

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

**Request for Departmental Action Fee  
Transmittal Form**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: **4**

SE12-891  
Provided by DEP

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**B. Instructions (cont.)**

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. 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.

9355

ERIC L PETERS  
PO BOX 1117  
EDGARTOWN MA 02539-1117

53-447  
113

DATE August 10 2002

Pay to the  
Order of

Commonwealth of Massachusetts (MEX) \$ 120.00

One hundred twenty and 00/100 DOLLARS

ROCKLAND TRUST  
MEMO

ROCKLAND  
TRUST  
www.rocklandtrust.com

*[Signature]*

MEMO 5612-891

⑈09355⑈ ⑆011304478⑆ ⑆0000006032014⑈

## **Objections to the Order of Conditions (SE12-891)**

Donald G. Smith (the “Owner”) is the owner of premises at 16 Harbor Hill Road, Chilmark, Massachusetts, being Lot M shown on Land Court Plan No. 7706-F, as further described in Certificate of Title No. 11907 (Chilmark Assessors Map 27.1, Parcel 104) (the “Property”). On August 2, 2022, the Chilmark Conservation Commission issued an Order of Conditions (SE12-891) (the “Order of Conditions”) to RMJ Dock, LLC to construct stairs on a coastal bank on the Property in order to access a pier and boathouse constructed on Lot M and situated in Menemsha Basin, as shown on a site plan dated May 31, 2022 prepared by Vineyard Land Surveying & Engineering (the “Site Plan” and the “Proposed Project”).

Owner objects to the Order of Conditions and the Proposed Project as it does not contribute to the protection of interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) (the “Act”) and is inconsistent with the applicable wetlands regulations (310 CMR 10.00).

### Relevant Background

The Site Plan shows the location of a portion of the “Existing Dwelling,” two attached decks, and the “parking area” where Owner resides at the top of a coastal bank at Harbor Hill Lane in Chilmark. It shows the location of the “Proposed Pier Access Stairs” running from the top of the coastal bank to the “existing deck” at the bottom of the coastal bank. The easterly portion of the “existing deck” lies above the mean high water line. The “existing deck” includes a “Existing Boat House” and extends westerly beyond the mean low water line to the “As-Built Pier Location” (the “Pier and Boat House”).

The Property (the upland and the Pier and Boat House) was formerly owned by Gladys M. Flanders. License No. 4712 issued July 16, 1963 to Gladys M. Flanders recorded with Dukes County Registry of Deeds in Book 250, Page 108 “...to extend and maintain existing timber pier and building, and install mooring piles in Menemsha Basin, at her property in the town of Chilmark...” This License was subsequently registered as Land Court Document No. 69539 in 2009 and noted on Owner’s Certificate of Title. The plan attached to the License does not show any stairs leading to the timber pier and building.

Article Fifth of the Will of Gladys M. Flanders dated March 27, 1989 provided:

I give and devise to my daughters, HOPE F. BAILIFF and PATRICIA N. F. SMITH, my camp known as “Topside”, together with the land upon which it is located on the hill at Menemsha Basin, Chilmark, County of Dukes County, Commonwealth of Massachusetts, described in Land Court Certificate of Title #1872... This devise is subject to the provisions of Article SIXTH hereof.

Owner is the successor in title from Hope F. Bailiff and his wife, Patricia N. F. Smith, to the Property. A copy of his Certificate of Title No. 11907 is attached to the Notice of Intent filed by RMJ Dock, LLC dated June 13, 2022 (the “Notice of Intent”).

Article Sixth of the Will of Gladys M. Flanders dated March 27, 1989 provided:

I give, devise, and bequeath to my son, ROBERT N. FLANDERS JR., and to such of his issue as shall be living at the time of my death, *during the terms of their lives or the survivor of them*, my shop called the “Bosun’s Locker”, and the wharf, which abuts my real property known as “Topside” described in Article Fifth above, together with a right of way for access to and from said shop and wharf across my said property known as “Topside”, located at Menemsha, Chilmark, Massachusetts (the “Easement”). [emphasis supplied]

A copy of the Will of Gladys M. Flanders is attached to the Notice of Intent.

Therefore, there are only *life estates* and not a fee simple absolute held by Robert N. Flanders, Jr. and his issue in the “Bosun’s Locker”, and the wharf” (the “Pier and Boathouse”). They have no life estates in Owner’s upland property. Their only right to Owner’s upland is to the Easement described in Article Sixth.

As noted in correspondence dated May 12, 2022 from counsel to RMJ Dock, LLC to Vineyard Land Surveying & Engineering, included in the Notice of Intent, Robert N. Flanders, Jr. died February 10, 2008. His issue executed an “Assignment of Life Estates, Rights, Easement & License” to RMJ Dock, Inc. dated June 19, 2010 recorded with Dukes County Registry of Deeds in Book 1216, Page 262 (the “Assignment of Life Estates”), which is also included in the Notice of Intent.

While the Easement under Article Sixth of the Will of Gladys M. Flanders is noted on Owner’s Certificate of Title No. 11907, the life estates established under Article Fifth of Gladys M. Flanders and the Assignment of Life Estates are *not* noted on Owner’s Certificate of Title No.11907.

It should be noted that there have never been stairs on the Property to provide access to “Bosun’s Locker”, and the wharf.” As noted in the cover letter to the Notice of Intent from Vineyard Land Surveying & Engineering dated June 13, 2022:

The pier and boathouse have been accessed historically by a set of stairs on the neighboring lot to the south, however the owners of that lot have withdrawn any permission to continue use of the stairs. The applicant currently does not have any physical access to the pier and boathouse by land.

This is confirmed at page 1 of the May 12, 2022 letter from counsel to RMJ Dock, LLC filed the Notice of Intent, historic access to the Pier and Boathouse was by stairs on an abutting property, access to which has now been denied.

#### Deficiencies in the Notice of Intent

Donald G. Smith is the “Landowner” as defined in 310 CMR 10.04. As required by 310 CMR 10.05(4)(a):



Any person who proposes to do work that will remove, fill, dredge or alter any Area Subject to Protection under M.G.L. c. 131 § 40 shall file a Notice of Intent on Form 3 and other application materials in accordance with the submittal requirements set forth in the General Instructions for Completing Notice of Intent (Form 3). *If the applicant is not a landowner of the Project Locus, the applicant shall obtain written permission from a landowner(s) prior to filing a Notice of Intent for proposed work, except for work proposed on Great Ponds or Commonwealth tidelands. [emphasis supplied]*

As noted in the cover letter to the Notice of Intent from Vineyard Land Surveying & Engineering dated June 13, 2022:

The applicant for the project is RMJ Dock, LLC, holder of an easement over land owned by Donald G. Smith to access the pier and boathouse (see enclosed documentation regarding easement)

As explained in the May 12, 2022 letter from counsel to RMJ Dock, LLC in the Notice of Intent:

Mr. Smith holds title to Lot M subject to the easement and rights existing under Gladys Mayhew's will, which have passed to RMJ Dock LLC by the assignment from Robert N. Flanders' heirs recorded at Book 0216, Page 262. These rights are referenced in Mr. Smith's Certificate of Title, attached.

Notwithstanding these acknowledgments that Donald G. Smith is the Landowner by the representative and attorney for RMJ Dock, LLC, the Notice of Intent contains no information as to "Property owner (required if different from applicant)" under "A. General Information 3." on Page 1. On "F. Signatures and Submittal Requirements" at Page 9 of the Notice of Intent, the only signature is at Line 5. "Signature of Representative (if any)." There is *no signature* at Line 3. "Signature of Property Owner (if different)." Finally, at "A. General Information 8." at Page 2 of the Notice of Intent, the Applicant wrongly lists as title reference to the Property the Book and Page of its Assignment of Life Estates, rather than the Certificate of Title of Owner.

It should be noted that no one ever advised Owner that the Notice of Intent was being filed by RMJ Dock, LLC. No one ever provided a copy of the Notice of Intent to Owner prior to filing and requested that Owner sign on the appropriate line.

Because Owner is listed on the "300 foot Abutter's List Report" under "Subject Property" filed with the Notice of Intent, Owner was never mailed notice of the filing of the Notice of Intent. It was only by being informed by a neighbor who received a copy of the Abutter Letter dated June 13, 2022 filed with the Notice of Intent that owner became aware of the filing of the Notice of Intent.

This was a deliberate attempt to deny Owner his rights of due process under 310 CMR 10.00.

In addition, at "A. General Information 7a." at Page 2 of the Notice of Intent, the Applicant has checked "1. Single Family Home." The Proposed Project is to build stairs ancillary to the Pier and Boathouse. As such, "4. Dock/Pier" should have been checked.

The “Project Description” and the Site Plan filed with the Notice of Intent contain additional deficiencies in its description of the Proposed Project. In fact, they have little to say as to the construction of the stairs. The Order of Conditions similarly fails to address these concerns.

1. The Site Plan shows only a vertical view of the proposed stairs.
2. There is no description of the material used to construct the stairs, the width and depth of the treads, the height and design of the railings to be constructed.
3. There is no side profile showing the height and slope of the Coastal Bank and specifying the size of the stringers, and the height and design of the railings to be constructed.

Such failure will make it difficult for Owner and the Chilmark Conservation Commission to address whether construction of the stairs meets the Conditions of the Order of Conditions or whether a Certificate of Compliance under 310 CMR 10.05(9) upon the completion of construction is appropriate.

A number of the above concerns were presented to the Chilmark Conservation Commission by my letter July 19, 2022, but not addressed in the Order of Conditions.

The Order of Conditions fails to require that Owner be given notice of any request for a Certificate of Compliance, of any site visit pursuant to 310 CMR 10.05(9)(b), and the opportunity to review any plans submitted after construction pursuant to 310 CMR 10.05(9)(d), all of which is appropriate as RMJ Dock, LLC is not the owner of the Property.

#### Protected Interests

The WPA and its regulations require the protection of Coastal Banks. The protected interests of a Coastal Bank (and its Buffer Zone) include buffering from storm damage and flooding, as outlined in 310 CMR 10.30(1), which also notes that “Bank vegetation tends to stabilize the bank and reduce the rate of erosion....” The above deficiencies in the Notice of Intent and the Order of Conditions do not meet the requirements of 310 CMR 10.30 and fail to protect the coastal bank.

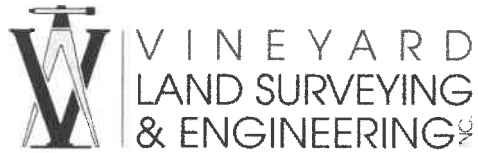
#### Feasible Alternatives

Neither the Applicant nor the Chilmark Conservation Commission considered whether there were “feasible alternatives” for the location of the stairs. The Easement is silent as to location of the “right of way,” its width, and improvements. RMJ Dock, LLC has made no attempt to confer with Owner and to seek agreement as to the location of the stairs, their method of construction, and width. As provided in 310 CMR 10.05(i) “An Order of Conditions does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of property rights.”

The Chilmark Conservation Commission should have required RMJ Dock, LLC to consider alternative sites on the Property for the Proposed Project.

**Exhibit B**

**Notice of Intent and Site Plan**



June 13, 2022

Town of Chilmark  
Conservation Commission  
P. O. Box 119  
Chilmark, MA 02535

Department of Environmental Protection  
Southeast Region  
20 Riverside Drive  
Lakeville, MA 02347

Re: RMJ Dock, LLC #16 Harbor Hill Road, Chilmark Assessor Parcel 27.1-104  
VLS&E Job No. 13-1

Dear Board Members and D.E.P.,

Enclosed please find a Notice of Intent to construct and maintain stairs on a coastal bank to access an existing pier and boathouse on the above referenced property. The pier and boathouse have been accessed historically by a set of stairs on the neighboring lot to the south, however the owners of that lot have withdrawn any permission to continue use of the stairs. The applicant currently does not have any physical access to the pier and boathouse by land.

The applicant for the project is RMJ Dock, LLC, holder of an easement over land owned by Donald G. Smith to access the pier and boathouse (see enclosed documentation regarding easement)

If you need any additional information or have questions please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reid G. Silva'.

Reid G. Silva, PE PLS  
Professional Engineer  
Professional Land Surveyor

**Plans & Materials List**

RMJ Dock, LLC  
#16 Harbor Hill Road, Chilmark  
Assessor Parcel 27.1-104

- a. Notice of Intent Application
- b. Easement documentation and opinion from Attorney William C. Henchy
- c. Project Description
- d. Abutter Notification dated June 13, 2022
- e. Abutter Report
- f. Chilmark Assessor Map
- g. USGS Topographic Quadrangle
- h. FEMA Map
- i. Site Plan in Chilmark, Mass.  
Prepared for RMJ Dock, LLC  
By Vineyard Land Surveying & Engineering, Inc.  
Dated: May 31, 2022 Scale 1 inch = 5 feet



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**

Provided by MassDEP:

**WPA Form 3 – Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Chilmark Wetlands Bylaw

MassDEP File Number

Document Transaction Number

Chilmark

City/Town

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



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

**A. General Information**

1. Project Location (**Note:** electronic filers will click on button to locate project site):

16 Harbor Hill Road

a. Street Address

Chilmark

b. City/Town

02535

c. Zip Code

Latitude and Longitude:

27.1

f. Assessors Map/Plat Number

d. Latitude

104

g. Parcel /Lot Number

e. Longitude

2. Applicant:

a. First Name

RMJ Dock, LLC

c. Organization

c/o Vineyard Land Surveying & Engineering, Inc. P. O. Box 421

d. Street Address

West Tisbury

e. City/Town

508-693-3774

h. Phone Number

i. Fax Number

MA

f. State

reid@vlse.net

j. Email Address

02575

g. Zip Code

3. Property owner (required if different from applicant):

Check if more than one owner

a. First Name

b. Last Name

c. Organization

d. Street Address

e. City/Town

f. State

g. Zip Code

h. Phone Number

i. Fax Number

j. Email address

4. Representative (if any):

Reid G.

a. First Name

Silva, PE/PLS

b. Last Name

Vineyard Land Surveying & Engineering, Inc.

c. Company

P. O. Box 421

d. Street Address

West Tisbury

e. City/Town

508-693-3774

h. Phone Number

i. Fax Number

MA

f. State

reid@vlse.net

j. Email address

02575

g. Zip Code

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

\$100.00

a. Total Fee Paid

\$37.50

b. State Fee Paid

\$62.50

c. City/Town Fee Paid



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

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City/Town

**A. General Information (continued)**

6. General Project Description:

Construct and maintain stairs on a coastal bank to access an existing pier and boathouse

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Single Family Home             | 2. <input type="checkbox"/> Residential Subdivision       |
| 3. <input type="checkbox"/> Commercial/Industrial                     | 4. <input type="checkbox"/> Dock/Pier                     |
| 5. <input type="checkbox"/> Utilities                                 | 6. <input type="checkbox"/> Coastal engineering Structure |
| 7. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) | 8. <input type="checkbox"/> Transportation                |
| 9. <input type="checkbox"/> Other                                     |   |

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Dukes

a. County

1216

c. Book

b. Certificate # (if registered land)

262

d. Page Number

**B. Buffer Zone & Resource Area Impacts (temporary & permanent)**

- Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

**WPA Form 3 – Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
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MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Chilmark \_\_\_\_\_

City/Town \_\_\_\_\_

**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Bank	1. linear feet _____	2. linear feet _____
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet _____	2. square feet _____
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet _____	2. square feet _____
	3. cubic yards dredged _____	

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____	2. square feet _____
	3. cubic feet of flood storage lost _____	4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____	
	2. cubic feet of flood storage lost _____	3. cubic feet replaced _____
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - <b>specify coastal or inland</b> _____	

2. Width of Riverfront Area (check one):
- 25 ft. - Designated Densely Developed Areas only
  - 100 ft. - New agricultural projects only
  - 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet _____	b. square feet within 100 ft. _____	c. square feet between 100 ft. and 200 ft. _____
----------------------------	-------------------------------------	--

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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Chilmark

City/Town

**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet 2. cubic yards dredged	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet	2. cubic yards beach nourishment
e. <input type="checkbox"/> Coastal Dunes	1. square feet	2. cubic yards dune nourishment

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
f. <input checked="" type="checkbox"/> Coastal Banks	4 LF 1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet	
h. <input type="checkbox"/> Salt Marshes	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet 2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet	
k. <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 1. cubic yards dredged	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet	

4.  Restoration/Enhancement  
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.2.b or B.3.h above, please enter the additional amount here.

a. square feet of BVW

b. square feet of Salt Marsh

5.  Project Involves Stream Crossings

a. number of new stream crossings

b. number of replacement stream crossings



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Document Transaction Number \_\_\_\_\_

Chilmark \_\_\_\_\_

City/Town \_\_\_\_\_

**C. Other Applicable Standards and Requirements**

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

**Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review**

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No

**If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program**  
**Division of Fisheries and Wildlife**  
**1 Rabbit Hill Road**  
**Westborough, MA 01581**

August 1, 2021

b. Date of map \_\_\_\_\_

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_

percentage/acreage

(b) outside Resource Area \_\_\_\_\_

percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <https://www.mass.gov/mass-endangered-species-act-mesa-regulatory-review>).

Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

**WPA Form 3 – Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Chilmark Wetlands Bylaw

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Chilmark \_\_\_\_\_

City/Town \_\_\_\_\_

**C. Other Applicable Standards and Requirements (cont'd)**

- (c)  MESA filing fee (fee information available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>).

Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

- (d)  Vegetation cover type map of site

- (e)  Project plans showing Priority & Estimated Habitat boundaries

- (f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

- a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and  
the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
836 South Rodney French Blvd.  
New Bedford, MA 02744  
Email: [dmf.envreview-south@mass.gov](mailto:dmf.envreview-south@mass.gov)

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [dmf.envreview-north@mass.gov](mailto:dmf.envreview-north@mass.gov)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

- c.  Is this an aquaculture project?      d.  Yes     No

If yes, include a copy of the Division of Marine Fisheries Certification Letter (M.G.L. c. 130, § 57).



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

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Chilmark

City/Town

**C. Other Applicable Standards and Requirements (cont'd)**

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

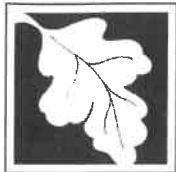
**D. Additional Information**

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands

Provided by MassDEP:

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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
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MassDEP File Number \_\_\_\_\_  
 Document Transaction Number \_\_\_\_\_  
 Chilmark \_\_\_\_\_  
 City/Town \_\_\_\_\_

**D. Additional Information (cont'd)**

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Site Plan of Land in Chilmark, Mass. Prepared for RMJ Dock, LLC

a. Plan Title

Vineyard Land Surveying & Engineering, Inc.

Reid G. Silva

c. Signed and Stamped by

May 31, 2022

1"=5'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

- 5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
- 6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
- 7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
- 8.  Attach NOI Wetland Fee Transmittal Form
- 9.  Attach Stormwater Report, if needed.

**E. Fees**

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

1571	6/1/2022
2. Municipal Check Number	3. Check date
1572	6/1/2022
4. State Check Number	5. Check date
Vineyard Land Surveying & Engineering, Inc.	
6. Payor name on check: First Name	7. Payor name on check: Last Name



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Chilmark Wetlands Bylaw

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Chilmark

City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

1. Signature of Applicant \_\_\_\_\_

2. Date \_\_\_\_\_

3. Signature of Property Owner (if different) \_\_\_\_\_

*Kim A. Sato* (Agent)

4. Date \_\_\_\_\_

June 13, 2022

5. Signature of Representative (if any) \_\_\_\_\_

6. Date \_\_\_\_\_

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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



**A. Applicant Information**

1. Location of Project:

16 Harbor Hill Road	Chilmark
a. Street Address	b. City/Town
1572	\$37.50
c. Check number	d. Fee amount

2. Applicant Mailing Address:

a. First Name		b. Last Name	
RMJ Dock, LLC			
c. Organization			
c/o Vineyard Land Surveying & Engineering, Inc. P. O. Box 421			
d. Mailing Address			
West Tisbury	MA	02575	
e. City/Town	f. State	g. Zip Code	
508-693-3774	reid@vlse.net		
h. Phone Number	i. Fax Number	j. Email Address	

3. Property Owner (if different):

a. First Name		b. Last Name	
c. Organization			
d. Mailing Address			
e. City/Town	f. State	g. Zip Code	
h. Phone Number	i. Fax Number	j. Email Address	

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Fees (continued)**

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
5a. work on stairs	4 LF	\$4/LF (\$100 min)	\$100.00

**Step 5/Total Project Fee:** \$100.00

**Step 6/Fee Payments:**

Total Project Fee:	\$100.00
State share of filing Fee:	\$37.50
City/Town share of filling Fee:	\$62.50
	a. Total Fee from Step 5
	b. 1/2 Total Fee <b>less</b> \$12.50
	c. 1/2 Total Fee <b>plus</b> \$12.50

**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

**To MassDEP Regional Office (see Instructions):** Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)



1572

VINEYARD LAND SURVEYING & ENGINEERING INC

PO BOX 421  
WEST TISBURY, MA 02575  
(508) 693-3774

MARTHA'S VINEYARD BANK 

53-7292/2113



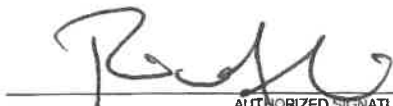
6/1/2022

PAY TO THE ORDER OF Commonwealth of Massachusetts

\$ 37.50

DOLLARS

Thirty Seven 50/100



AUTHORIZED SIGNATURE

MEMO 13-1 Nixon NOI State Fee

⑈001572⑈ ⑆211372925⑆ 45 249570⑈

Security features. Details on back. FD

1571

VINEYARD LAND SURVEYING & ENGINEERING INC

PO BOX 421  
WEST TISBURY, MA 02575  
(508) 693-3774

MARTHA'S VINEYARD BANK 

53-7292/2113



6/1/2022

PAY TO THE ORDER OF Town of Chilmark

\$ 62.50

DOLLARS

Sixty Two 50/100



AUTHORIZED SIGNATURE

MEMO 13-1 Nixon NOI Town Fee

⑈001571⑈ ⑆211372925⑆ 45 249570⑈

Security features. Details on back. FD

Robert Flanders and Gladys Mayhew Flanders purchased Lot M as shown on land Court Plan 7706F (the land now owned by Mr. Smith) by deed dated May 17, 1955.

Robert and Gladys Mayhew had a son, Robert N. Flanders Jr., who passed on February 10, 2008.

In her Will dated March 27, 1989, Gladys Mayhew Flanders divided the ownership in Lot M by granting the home, which she called "Topside", to her two daughters, Hope Bailiff and Patricia N.F. Smith (Donald Smith's wife), to them as tenants in common.

Mrs. Flanders gave her son Robert the "shop called the Bosun's locker, and the wharf, which abuts my real property known as "Topside" **...together with a right of way for access to and from the said shop and wharf across my said property known as "Topside", located at Menemsha, Chilmark, Massachusetts.** The ownership of the Bosun's locker and wharf was granted to "my son, Robert N. Flanders and to such of his issue (children) as shall be living at the time of my death, during the terms of their lives or the survivor of them". A copy of Mrs. Flanders' Will is attached.

As noted above, Robert N. Flanders passed away on February 10, 2008. His Obituary noted that "just about any morning for the last 39 years, you could see Bob driving down to the shore, opening up his shanty, getting his gear on and climbing into his boat to head out on the water.". Robert Flanders gained access to the shanty and dock via the right of way reserved to him in his mother's will.

On June 19, 2010, RMJ Dock LLC acquired, by assignment recorded at Dukes Registry of Deeds in Book 01216, Page 262, all of the rights in Robert N. Flanders Jr.'s heirs, said life estates, remainder interests and any and all other rights, title or interest in and to the said Bosun's Locker **and said wharf and the easement rights held by the Assignees in connection therewith, noted on Certificate of Title No. 11907 as "right of way granted to Robert N. Flanders, Jr., et al", and in Article Six of the will of Gladys M Flanders.** A copy of the Assignment is attached.

Donald Smith inherited Lot M on Plan 706-F from his late wife, Patricia N.F. Smith (who had previously acquired her sister Hope Bailiff's share) , the daughter of Gladys Mayhew Flanders, and the sister of Robert N. Flanders Jr.

Mr. Smith holds title to Lot M subject to the easement and rights existing under Gladys Mayhew's will, which have passed to RMJ Dock LLC by the assignment from Robert N. Flanders' heirs recorded at Book 0216, Page 262. These rights are referenced in Mr. Smith's Certificate of Title, attached.

Therefore, RMJ Dock LLC is the holder of the easement contained in Article 6 of the Will of Gladys Flanders across the land of Donald Smith and noted in his Certificate of Title. The easement is not limited at any part of Lot M, and so the new staircase

may be located where it is most convenient and where it will meet the performance standards contained in the Wetlands Act, 310 CMR 10.00, and the Chilmark Wetlands By-law.

Please do not hesitate to contact me if you should have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'WCH', followed by a long, sweeping horizontal line that curves upwards at the end.

William C. Henchy  
Wch/  
Enc.  
cc. RMJ Dock LLC

## Transfer Certificate of Title

Cert No: 11907  
Doc No: 63517

Book: 64  
Page: 95

From Transfer Certificate No. 8670, Originally Registered January 19, 1922, in Registration Book 1, Page 223 for the Registry District of Dukes County.

**This is to Certify** that DONALD G SMITH of 16 Harbor Hill Rd, Chilmark MA 02535 is the owner in fee simple, of that certain parcel of land situated in Chilmark, in the County of Dukes and Commonwealth of Massachusetts, described as follows:

EASTERLY	by	a Way sixty (60) feet;
SOUTHERLY	by	Lot N about forty-nine (49) feet;
WESTERLY	by	the waters of the Old Channel of Menemsha Creek; and
NORTHERLY	by	Lot L about fifty-one (51) feet.

The above described land is shown as Lot M on sub-division plan 7706-F, filed with Certificate of Title No. 543.

So much of the above described land as lies between the line of the creek and the foot of the bank, as shown on said plan, is subject to a right of way reserved in a certain deed given by Franklin P Tilton to Stephen I Gardner, dated August 30, 1930, filed as Document No. 833.

And it is further certified that said land is under the operation and provisions of Chapter 185 of the General Laws and any amendments thereto, and that the title of said DONALD G SMITH to said land is registered under said Chapter subject, however, to any of the encumbrances mentioned in Section forty-six of said Chapter, and any amendments thereto, which may be subsisting, and subject also to the right of way granted to Robert N Flanders, Jr., et al, by Article Six of the will of Gladys M Flanders.

Witness Karyn F. Scheier, Chief Justice of the Land Court, Department of the Trial Court, at Edgartown, in said county of Dukes the thirty-first day of August the year two thousand and five at 9 o'clock and 11 minutes in the forenoon.

Attest, with the Seal of said Court,

  
Dianne E. Powers, Assistant Recorder

Land Court Case No. 7706

Property Address:  
16 Harbor Hill Rd  
Chilmark MA 02535

Dukes Probate  
890-0070-E1

COPY

KNOW ALL MEN BY THESE PRESENTS, that I, GLADYS M. FLANDERS, a legal resident of the Town of Chilmark, County of Dukes County, Commonwealth of Massachusetts, being of sound and disposing mind and memory and under no restraint, duress or undue influence, do make, publish and declare this to be my LAST WILL AND TESTAMENT, in manner and form following, that is to say:

ARTICLE FIRST: I hereby cancel, annul and revoke any and all wills and codicils by me at any time heretofore made.

ARTICLE SECOND: I direct that all of my funeral and administration expenses be paid as soon as practicable after my decease.

ARTICLE THIRD: Insofar as permitted by law, I specifically request that no guardian ad litem or other person be appointed to represent the interests of minors, incompetents or persons unborn or unascertained in connection with the allowance of any account or other matters concerning this Will.

ARTICLE FOURTH: I give and devise to my daughter, ELIZABETH M.F. CARROLL, if she survives me, the land and my house in which I live located on North County Road, in the Town of Chilmark, County of Dukes County, Commonwealth of Massachusetts, described in the deed from Mary Emma Dean to Robert N. Flanders and Gladys M. Flanders dated September 18, 1933, recorded in Dukes County Registry of Deeds in Book 193, Page 414. If my said daughter shall predecease me, I give and devise said property to such of the issue of my said daughter as shall survive me, per stirpes.

ARTICLE FIFTH: I give and devise to my daughters, HOPE F. BAILIFF and PATRICIA N.F. SMITH, my camp known as "Topside", together with the land upon which it is located on the hill at Menemsha Basin, Chilmark, County of Dukes County, Commonwealth of Massachusetts, described in Massachusetts Land Court Certificate of Title #1872, they to own the same in equal shares as tenants in common. If either of my said daughters shall predecease me, I

Gladys M. Flanders

ARTICLE NINTH: For all purposes

~~Share and bequest share to include the issue of such daughter as~~  
shall survive me, per stirpes. This devise is subject to the provisions of Article SIXTH hereof.

ARTICLE SIXTH: I give, devise and bequeath to my son, ROBERT N. FLANDERS, JR., and to such of his issue as shall be living at the time of my death, during the terms of their lives or the survivor of them, my shop called the "Bosun's Locker", and the wharf, which abuts my real property known as "Topside" described in Article Fifth above, together with a right of way for access to and from said shop and wharf across my said property known as "Topside", located at Menemsha, Chilmark, Massachusetts.

ARTICLE SEVENTH: I give and bequeath all my tangible personal property, including my furniture, furnishings, jewelry, automobiles, silverware, glassware, lamps, bells and objects of art, wheresoever located, to my four children, HOPE F. BAILIFF, PATRICIA N.F. SMITH, ROBERT N. FLANDERS, JR. and ELIZABETH M.F. CARROLL, to be divided among them by my Executors in accordance with a memorandum which I shall leave setting forth my desires with respect to the disposition and distribution of such property. Such memorandum, however, will be simply an expression of my wishes and shall not create any trust or obligation, nor shall it be offered for probate as a part of this Will.

ARTICLE NINTH: I give, devise and bequeath all the rest, residue and remainder of my Estate, whether real, personal or mixed property of every kind and nature whatsoever, and wheresoever situated, which I may now own or hereafter acquire, or have the right to dispose of at the time of my decease, by power of appointment or otherwise, in equal shares to my four children, ROBERT N. FLANDERS, JR., HOPE F. BAILIFF, ELIZABETH M.F. CARROLL and PATRICIA N.F. SMITH. If any of my said children shall predecease me, I give, devise and bequeath his or her share to the issue of said child living at the time of my death, per stirpes, or if any shall predecease me leaving no issue, then the share of said child shall be divided equally among such of my children as shall survive me and the issue of any predeceased child then living, by right of representation.

*Robert N. Flanders*

ARTICLE NINTH: For all purposes of this instrument, adopted children shall be treated in all respects the same as natural children.

ARTICLE ELEVENTH: I hereby nominate and appoint my son, ROBERT N. FLANDERS, JR., and my daughter, HOPE F. BAILIFF, as Co-Executors of this my LAST WILL AND TESTAMENT, and direct that my said Co-Executors shall not be required to furnish sureties on any bond given by them. If either of them shall predecease me, or decline or be unwilling or unable to serve, or having qualified as such shall die or resign before the administration of my estate has been completed, the other one of them shall serve as sole Executor without sureties on any bond given by her or him. I request that any executor named herein may be appointed temporary executor upon application therefor.

ARTICLE ELEVENTH: I grant unto my said Co-Executors the following powers, in addition to those powers from time to time granted by the laws of the Commonwealth of Massachusetts to executors of Massachusetts residents, during the course of the administration of my Estate, the same to be exercised in such a manner as they in the exercise of a reasonable discretion may deem advisable, and to be applicable to all property, real and personal, at any time forming part of my Estate:

A. To retain, temporarily or permanently, any or all property owned by me at the time of my death in the form in which it then exists; to invest and reinvest the same; to acquire by purchase, exchange or otherwise, and retain temporarily or permanently, any kind of realty and personalty, including stocks and unsecured obligations, undivided interests and leases, and including property which is located outside of my domicile, all without being under any duty to diversify the property and without being limited to investments authorized by law for trust funds; and to hold funds uninvested, or deposit any moneys of my Estate in one or more savings or other banks.

B. To hold property in their own name or in the name of nominees;

*Handwritten:* M. Flanders

C. On any division or distribution of my Estate, to make the same in cash or in kind or partly in each;

D. To sell at public or private sale and to exchange or partition all or any part of the property held by them as fiduciaries, without order or license from any court, and to execute any and all deeds and other instruments necessary or appropriate therefor, with or without covenants, warranties and representations.

I, GLADYS M. FLANDERS, the undersigned testatrix, do hereby declare that I sign and execute this instrument as my LAST WILL AND TESTAMENT, that I sign it willingly in the presence of each of the undersigned witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed, this 27<sup>th</sup> day of March, 1989.

Gladys M. Flanders (L.S.)

We, the undersigned witnesses, each do hereby declare in the presence of the aforesaid testatrix that the testatrix signed and executed this instrument as the testatrix's Last Will in the presence of each of us, that the testatrix signed it willingly, that each of us hereby signs this Will as witness in the presence of the testatrix, and that to the best of our knowledge the testatrix is eighteen years of age or over, of sound mind, and under no constraint or undue influence.

[Signature]  
Witness

[Signature], MA  
Address

[Signature]  
Witness

[Signature]  
Address

COMMONWEALTH OF MASSACHUSETTS

County of Duke County, ss

MARCH 27, 1989

Subscribed, sworn to and acknowledged before me by GLADYS M. FLANDERS, the said testatrix, and the said witnesses this 27 day of March, 1989.

[Signature]  
Notary Public  
My commission expires:  
JUNE 2, 1990

LAW OFFICES  
MONTGOMERY,  
WEISNER & PETERS  
P.O. BOX 1117  
EDGEMONT,  
MASSACHUSETTS  
02129





Bk: 1216 Pg: 262 Doc: DEED  
Page: 1 of 4 07/06/2010 11:00 AM

MASSACHUSETTS LAND BANK FEE  
PAID \$ 15,800  
EXEMPTION  
47741 7/6/10 RMJ  
NO DATE CERTIFICATION

**ASSIGNMENT OF LIFE ESTATES, RIGHTS, EASEMENT & LICENSE**

*Reference is made to a certain shop called "Bosun's Locker" and the wharf which abuts property known as "Topside" which is located at 16 Harbor Hill, Menemsha Basin, Chilmark, Massachusetts, and described in Certificate of Title No. 11907, filed in the Dukes County Registry District Office of the Land Court in Book 64, Page 95.*

WHEREAS, **LUISANN F. BOLLIN, CARL E. FLANDERS, ROBERT S. FLANDERS, LAURENCE M. FLANDERS, and FRANKLIN P. FLANDERS** are the holders of certain life estates and easements, and a pier license, all as more particularly described below, and a possible remainder interest following said life estates which they have agreed to assign to **RMJ DOCK LLC**, a Massachusetts limited liability company with a principal office address c/o Robert H. Nixon, 86 Beach Plum Lane, Menemsha, MA 02552;

WHEREAS, ASSIGNORS' life estates and possible remainder interests pertain to the shop and wharf located at 16 Harbor Hill, Menemsha Basin, Chilmark, Massachusetts adjacent to land shown as Lot M, on Land Court Plan 7706-F filed in the Dukes County Registry District Office of the Land Court, known as "Topside", and the easement assigned is the right to use a right of way for access to and from said shop and wharf across "Topside". The life estates, remainder interests and easement rights originate from the Estate of Gladys M. Flanders, late of Chilmark, Dukes County, Massachusetts, who died testate on May 19, 1989 (Dukes Probate Docket No. 89P0070-E1), and are set forth in Article Six of Gladys M. Flanders' will.


NOW THEREFORE, for consideration of SEVEN HUNDRED NINETY THOUSAND and 00/100 (\$790,000.00) paid, **LUISANN F. BOLLIN, CARL E. FLANDERS, ROBERT S. FLANDERS, LAURENCE M. FLANDERS, and FRANKLIN P. FLANDERS** (collectively, "ASSIGNOR") hereby sell, assign, and transfer to **RMJ DOCK LLC** ("ASSIGNEE"), said life estates, remainder interests and any and all other rights, title or interest in and to the said Bosun's Locker and said wharf and the easement rights held by the Assignees in connection therewith, noted on Certificate of Title No. 11907 as "right of way granted to Robert N. Flanders, Jr., et al", and in Article Six of the will of Gladys M Flanders.

Also assigned hereby is all Assignors' right, title and interest in and to the license to extend and maintain a timber pier and building, and install mooring piles in Menemsha Basin, adjacent to Lot M on Land Court Plan 7706-F. Said license was issued to Gladys M. Flanders on September 25, 1963, is recorded in Dukes County Registry of Deeds in Book 250, Page 108, and is noted on Certificate of Title No. 11907, filed in the Dukes County Registry District Office of the Land Court in Book 64, Page 95.

MASSACHUSETTS EXCISE TAX  
Dukes County ROD #8 001  
Date: 07/06/2010 11:00 AM  
Ctrl# 037862 29317 Doc# 00004028  
Fee: \$3,602.40 Cons: \$790,000.00

For title, see also the Estate of Robert N. Flanders, Jr. (Dukes Probate Docket No. 08P0033-EP1). ASSIGNOR represents and warrants to ASSIGNEE that ASSIGNOR represents all of the living children of the said Robert N. Flanders, Jr.

EXECUTED as a sealed instrument on this 2<sup>nd</sup> day of ~~June~~ <sup>July</sup>, 2010.

, Assignor  
Luisann Bollin

, Assignor  
Carl E. Flanders

, Assignor  
Robert S. Flanders

\_\_\_\_\_, Assignor  
Laurence M. Flanders

, Assignor  
Franklin P. Flanders


**COMMONWEALTH OF ~~VIRGINIA~~ MASSACHUSETTS**

Dukes County, ss.

LUISANN BOLLIN

On this 30 day of ~~June~~ <sup>July</sup>, 2010, before me, the undersigned notary public, personally appeared Laurence M. Flanders, proved to me through satisfactory evidence of identification, which was PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

AFFIX :  
NOTARIAL:  
SEAL :

  
Notary Public  
My Commission expires: 5/31/2012

For title, see also the Estate of Robert N. Flanders, Jr. (Dukes Probate Docket No. 08P0033-EP1). ASSIGNOR represents and warrants to ASSIGNEE that ASSIGNOR represents all of the living children of the said Robert N. Flanders, Jr.

EXECUTED as a sealed instrument on this 19 day of June, 2010.

\_\_\_\_\_, Assignor  
Luisann Bollin

\_\_\_\_\_, Assignor  
Carl E. Flanders

\_\_\_\_\_, Assignor  
Robert S. Flanders

Laurence M. Flanders, Assignor  
Laurence M. Flanders

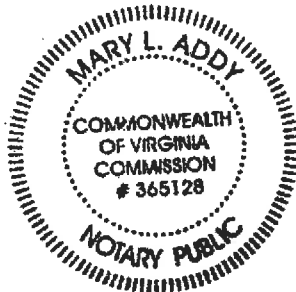
\_\_\_\_\_, Assignor  
Franklin P. Flanders

**COMMONWEALTH OF VIRGINIA**

Rockingham County, ss.

On this 19 day of June, 2010, before me, the undersigned notary public, personally appeared Laurence M. Flanders, proved to me through satisfactory evidence of identification, which was VA drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

AFFIX :  
NOTARIAL :  
SEAL :



Mary L. Addy  
Notary Public  
My Commission expires: 4/30/13

STATE OF MARYLAND

Wic. County, ss.

On this 18<sup>th</sup> day of June, 2010, before me, the undersigned notary public, personally appeared Robert S. Flanders, proved to me through satisfactory evidence of identification, which was Robert S Flanders SC Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Marcia Dwyer  
Notary Public  
My Commission expires: May 16, 2012



COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

On this 2 day of ~~June~~ <sup>July</sup>, 2010, before me, the undersigned notary public, personally appeared Carl E. Flanders, proved to me through satisfactory evidence of identification, which was driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Cathie M. Hurd  
Notary Public  
My Commission expires: 9-21-12



COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

On this 2 day of ~~June~~ <sup>July</sup>, 2010, before me, the undersigned notary public, personally appeared Franklin P. Flanders, proved to me through satisfactory evidence of identification, which was driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Cathie M. Hurd  
Notary Public  
My Commission expires: 9-21-12



5076-002 Assignment of Life Estates.doc

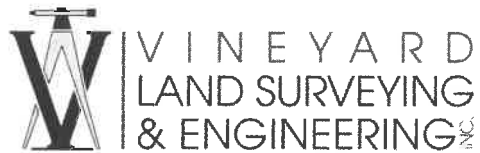
Attest: Jeanne E. Powers Registrar



## **Project Description**

### **Pier access stair construction:**

- Trim and cut existing vegetation within proposed stairway. All shrubs and brush will be cut by hand tools only and flush cut to preserve the root system. All clippings and slash will be removed from the site for disposal.
- Install stair posts: Posts will be secured with a pin anchor system to avoid digging and minimize disturbance. Support brackets will be bolted to the post and 1 inch galvanized pipes driven into the bank to secure the post.
- Traditional stair stringers, treads and railings will be built on the posts to the bank. All construction debris will be stored in waste barrels and removed from the site.



June 13, 2022

Dear Abutter:

Massachusetts General Laws Chapter 131 Section 40 requires any person filing a Notice of Intent with a conservation commission give notification to abutters.

As such an abutter please note that a Notice of Intent has been filed with the Chilmark Conservation Commission on behalf of RMJ Dock, LLC to construct and maintain stairs on a coastal bank to access an existing pier and boathouse. The proposed work is located at #16 Harbor Hill Road, Chilmark Assessor Parcel 27.1-104.

Copies of this Notice of Intent are on file with the Chilmark Conservation Commission at the Town Hall. For more information or to examine copies contact the Conservation Commission at the Town Hall (508)-645-2114 or this office.

At least 5 days before the public hearing, a legal notice will be published in a local paper.

Sincerely,

Reid G. Silva, PE/PLS  
Professional Engineer  
Professional Land Surveyor



# 300 foot Abutters List Report

Chilmark, MA

June 01, 2022

## Subject Property:

Parcel Number: 271-104-00  
CAMA Number: 271-104-00  
Property Address: 16 HARBOR HILL RD

Mailing Address: SMITH DONALD G  
C/O: ROBIN SMITH PO BOX 238  
CHILMARK, MA 02535

## Abutters:

Parcel Number: 271-053-00  
CAMA Number: 271-053-00  
Property Address: 512 NORTH RD

Mailing Address: SWORDFISH ENTERPRISES LLC  
PO BOX 38  
MENEMSHA, MA 02552

Parcel Number: 271-084-00  
CAMA Number: 271-084-00  
Property Address: 512 NORTH RD

Mailing Address: SWORDFISH ENTERPRISES LLC  
PO BOX 38  
MENEMSHA, MA 02552

Parcel Number: 271-085-00  
CAMA Number: 271-085-00  
Property Address: 512 NORTH RD

Mailing Address: SWORDFISH ENTERPRISES LLC  
PO BOX 38  
MENEMSHA, MA 02552

Parcel Number: 271-086-00  
CAMA Number: 271-086-00  
Property Address: 0 NORTH RD

Mailing Address: SONGWIND LLC  
C/O: REYNOLDS,RAPPAPORT&KAPLAN  
PO BOX 2540  
EDGARTOWN, MA 02539

Parcel Number: 271-087-00  
CAMA Number: 271-087-00  
Property Address: 0 NORTH RD

Mailing Address: CHILMARK TOWN OF  
BOX 119  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-00  
Property Address: 17 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF  
BOX 119  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-01  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & LARSEN LOUIS  
13 WAMPUM WAY  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-02  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & FLANDERS  
CARL  
4 LARSEN LANE  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-03  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & DENNIS JASO  
14 RIDGE HILL RD  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-04  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & JENKINSON  
WALTER A II  
PO BOX 28  
WEST TISBURY, MA 02575



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# 300 foot Abutters List Report

Chilmark, MA

June 01, 2022

Parcel Number: 271-090-00  
CAMA Number: 271-090-05  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & MAYHEW  
JONANTHAN & GR  
PO BOX 32  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-06  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & MURPHY CHRIS  
W  
88 MURPHY RD  
CHILMARK, MA 02535

Parcel Number: 271-090-00  
CAMA Number: 271-090-07  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF & LARSEN JOHN  
108 HAMMETT LN  
CHILMARK, MA 02535

Parcel Number: 271-091-00  
CAMA Number: 271-091-00  
Property Address: 27 BOATHOUSE RD

Mailing Address: UNITED STATES OF AMERICA  
US COAST GUARD 20 EDYS ISLAND  
WAY  
CHILMARK, MA 02535

Parcel Number: 271-094-00  
CAMA Number: 271-094-00  
Property Address: 515 NORTH RD

Mailing Address: MENEMSHA GALLEY INC  
12 FENNER WAY  
CHILMARK, MA 02535

Parcel Number: 271-095-00  
CAMA Number: 271-095-00  
Property Address: 0 NORTH RD

Mailing Address: PACKER DEBORAH MCLEOD  
PO BOX 82  
MENEMSHA, MA 02552

Parcel Number: 271-097-00  
CAMA Number: 271-097-00  
Property Address: 511 NORTH RD

Mailing Address: MENEMSHA BY THE SEA LLC  
223 WEST SPRING ST  
VINEYARD HAVEN, MA 02568

Parcel Number: 271-098-00  
CAMA Number: 271-098-00  
Property Address: 6 HARBOR HILL RD

Mailing Address: PACKER DEBORAH M  
PO BOX 82  
MENEMSHA, MA 02552

Parcel Number: 271-100-00  
CAMA Number: 271-100-00  
Property Address: 8 HARBOR HILL RD

Mailing Address: TILTON DAVID  
PO BOX 68  
RYE, NH 03870-0068

Parcel Number: 271-101-00  
CAMA Number: 271-101-00  
Property Address: 10 HARBOR HILL RD

Mailing Address: KHEDOURI FREDERICK N  
PO BOX 6  
MENEMSHA, MA 02552

Parcel Number: 271-102-00  
CAMA Number: 271-102-00  
Property Address: 12 HARBOR HILL RD

Mailing Address: BURGESS PATRICIA A TRUSTEE  
;CAPTAIN BARLOW I REALTY TRUST  
55 REDWING DR  
BRIDGEWATER, MA 02324

Parcel Number: 271-103-00  
CAMA Number: 271-103-00  
Property Address: 14 HARBOR HILL RD

Mailing Address: WILCOX BESSIE C, GILBERT & DONALD  
TRSTEE  
BESSIE C WILCOX GRANTOR TRUST  
115 BAR GATE TRAIL  
KILLINGWORTH, CT 06419-1382



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# 300 foot Abutters List Report

Chilmark, MA

June 01, 2022

Parcel Number: 271-105-00  
CAMA Number: 271-105-00  
Property Address: 0 HARBOR HILL RD

Mailing Address: FLANDERS FRANCES, M & S TRSTEEES  
C/O: FRANCES C FLANDERS PO BOX 59  
CHILMARK, MA 02535

Parcel Number: 271-106-00  
CAMA Number: 271-106-00  
Property Address: 18 HARBOR HILL RD

Mailing Address: KEENE SUZANNA & KATHERINE TRST  
AERIE REALTY TRUST 9 ISLAND HILL  
AVE  
RIDGEFIELD, CT 06877

Parcel Number: 271-107-00  
CAMA Number: 271-107-00  
Property Address: 26 HARBOR HILL RD

Mailing Address: KENNEY BRIAN R TRUSTEE ;KENNEY  
FAMILY GRAT #2  
C/O CAROL KENNEY 1136 FIFTH  
AVENUE  
NEW YORK, NY 10128

Parcel Number: 271-108-00  
CAMA Number: 271-108-00  
Property Address: 27 HARBOR HILL RD

Mailing Address: KEENE JOHN E & HILLARY N TRS  
EYRIE REALTY TRUST 16 REDHAWK  
LANE  
CHILMARK, MA 02535

Parcel Number: 271-109-00  
CAMA Number: 271-109-00  
Property Address: 10 BASIN RD

Mailing Address: POOLE EVERETT H  
7 BUMBLEBEE HILL  
CHILMARK, MA 02535

Parcel Number: 271-110-00  
CAMA Number: 271-110-00  
Property Address: 25 HARBOR HILL RD

Mailing Address: KEENE JOHN E & HILLARY N TRS  
EYRIE REALTY TRUST 16 REDHAWK  
LANE  
CHILMARK, MA 02535

Parcel Number: 271-111-00  
CAMA Number: 271-111-00  
Property Address: 21 HARBOR HILL RD

Mailing Address: HORWITZ ANTHONY L & GERALDINE  
BROOKS  
PO BOX 5056  
VINEYARD HAVEN, MA 02568

Parcel Number: 271-112-00  
CAMA Number: 271-112-00  
Property Address: 21 HARBOR HILL RD

Mailing Address: HORWITZ ANTHONY L & GERALDINE  
BROOKS  
PO BOX 5056  
VINEYARD HAVEN, MA 02568

Parcel Number: 271-113-00  
CAMA Number: 271-113-00  
Property Address: 21 R HARBOR HILL RD

Mailing Address: HORWITZ ANTHONY L & GERALDINE  
BROOKS  
PO BOX 5056  
VINEYARD HAVEN, MA 02568

Parcel Number: 271-115-00  
CAMA Number: 271-115-00  
Property Address: 509 NORTH RD

Mailing Address: GREENEBAUM EDWIN H TRUSTEE  
GREENEBAUM FAMILY MASS LAND TR  
2246 EAST CAPE COD DRIVE  
BLOOMINGTON, IN 47401

Parcel Number: 271-116-00  
CAMA Number: 271-116-00  
Property Address: 2 BASIN RD

Mailing Address: FULLER ROBERT E TRUSTEE  
10 NORTH ABEL'S HILL RD  
CHILMARK, MA 02535-9233

Parcel Number: 271-117-00  
CAMA Number: 271-117-00  
Property Address: 4 BASIN RD

Mailing Address: FLANDERS FRANCES C & WJ EISEN  
TRSTEEES  
DAVID FLANDERS FAM NOM TR III PO  
BOX 59  
CHILMARK, MA 02535



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# 300 foot Abutters List Report

Chilmark, MA

June 01, 2022

Parcel Number: 271-118-00  
CAMA Number: 271-118-00  
Property Address: 8 BASIN RD

Mailing Address: SLATER HERBERT & JANE N TRSTEEES  
SLATER FAMILY NOMINEE TRUST PO  
BOX 54  
MENEMSHA, MA 02552

Parcel Number: 271-119-00  
CAMA Number: 271-119-00  
Property Address: 20 CRICK HILL RD

Mailing Address: CRICK HILL LLC  
C/O: PATRICK SICA 15 KENSINGTON RD  
UNIT#402  
BRONXVILLE, NY 10708

Parcel Number: 271-120-00  
CAMA Number: 271-120-00  
Property Address: 18 CRICK HILL RD

Mailing Address: HANCOCK DEBORAH TRUSTEE  
HATE TO QUIT IT RE TRUST PO BOX 460  
CHILMARK, MA 02535

Parcel Number: 271-121-00  
CAMA Number: 271-121-00  
Property Address: 16 CRICK HILL RD

Mailing Address: CRICK HILL LLC  
C/O: PATRICK SICA 15 KENSINGTON RD  
UNIT# 402  
BRONXVILLE, NY 10708

Parcel Number: 271-122-00  
CAMA Number: 271-122-00  
Property Address: 12 CRICK HILL RD

Mailing Address: CRICK HILL STATE OF MIND LLC C/O  
MICHELLE GRACE  
487 EAST MAIN ST. STE# 157  
MT KISCO, NY 10549

Parcel Number: 271-123-00  
CAMA Number: 271-123-00  
Property Address: 10 CRICK HILL RD

Mailing Address: MENEMSHA POOLHOUSE LLC  
487 EAST MAIN ST STE# 157  
MT KISCO, NY 10548

Parcel Number: 271-124-00  
CAMA Number: 271-124-00  
Property Address: 28 BASIN RD

Mailing Address: POTCAKE LLC  
PO BOX 98  
N WEYMOUTH, MA 02191

Parcel Number: 271-157-00  
CAMA Number: 271-157-00  
Property Address: 25 BASIN RD

Mailing Address: SLOANE ROBERT & MARY E LARSEN  
20 STONEWALL RD  
CHILMARK, MA 02535

Parcel Number: 271-158-00  
CAMA Number: 271-158-00  
Property Address: 15 BASIN RD

Mailing Address: ULJUA ELIZABETH O  
1895 FREEDOM DR  
MELBOURNE, FL 32940

Parcel Number: 271-159-00  
CAMA Number: 271-159-00  
Property Address: 11 BASIN RD

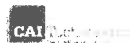
Mailing Address: MCCORMICK SETH J & KATHERINE E  
14 WATSON ST UNIT# 17  
LOWELL, MA 01852

Parcel Number: 271-160-00  
CAMA Number: 271-160-00  
Property Address: 2 CHOWDER KETTLE LN

Mailing Address: BEZANSON JEFFREY C TRUSTEE  
CHILMARK CHOWDER NOM TRUST 288  
SUMMER ST  
BRIDGEWATER, MA 02324

Parcel Number: 271-229-00  
CAMA Number: 271-229-00  
Property Address: 0 BOATHOUSE RD

Mailing Address: UNITED STATES OF AMERICA  
US COAST GUARD 20 EDYS ISLAND  
WAY  
CHILMARK, MA 02535



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# 300 foot Abutters List Report

Chilmark, MA

June 01, 2022

Parcel Number: 271-230-00  
CAMA Number: 271-230-00  
Property Address: 0 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF  
PO BOX 119  
CHILMARK, MA 02535

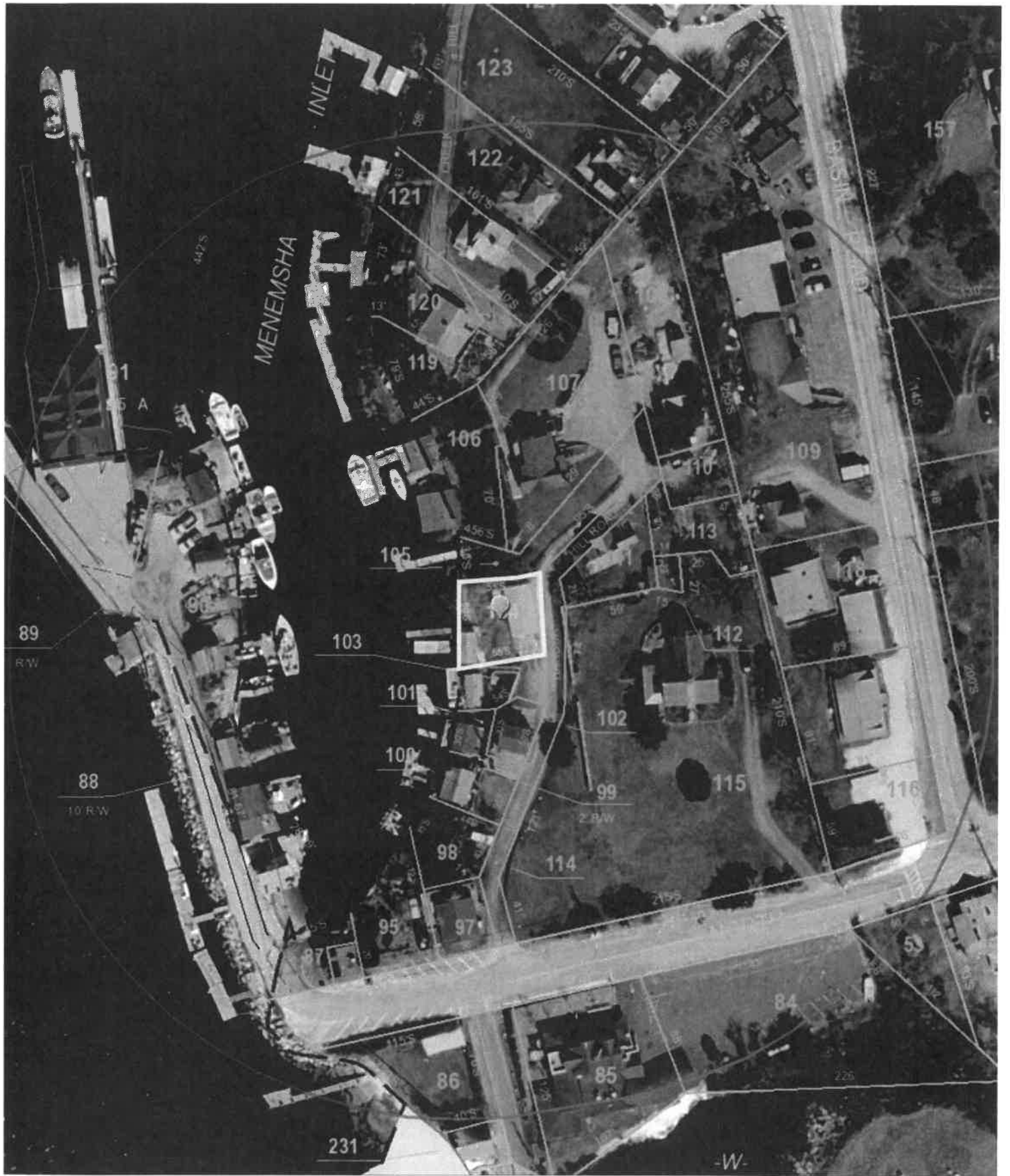


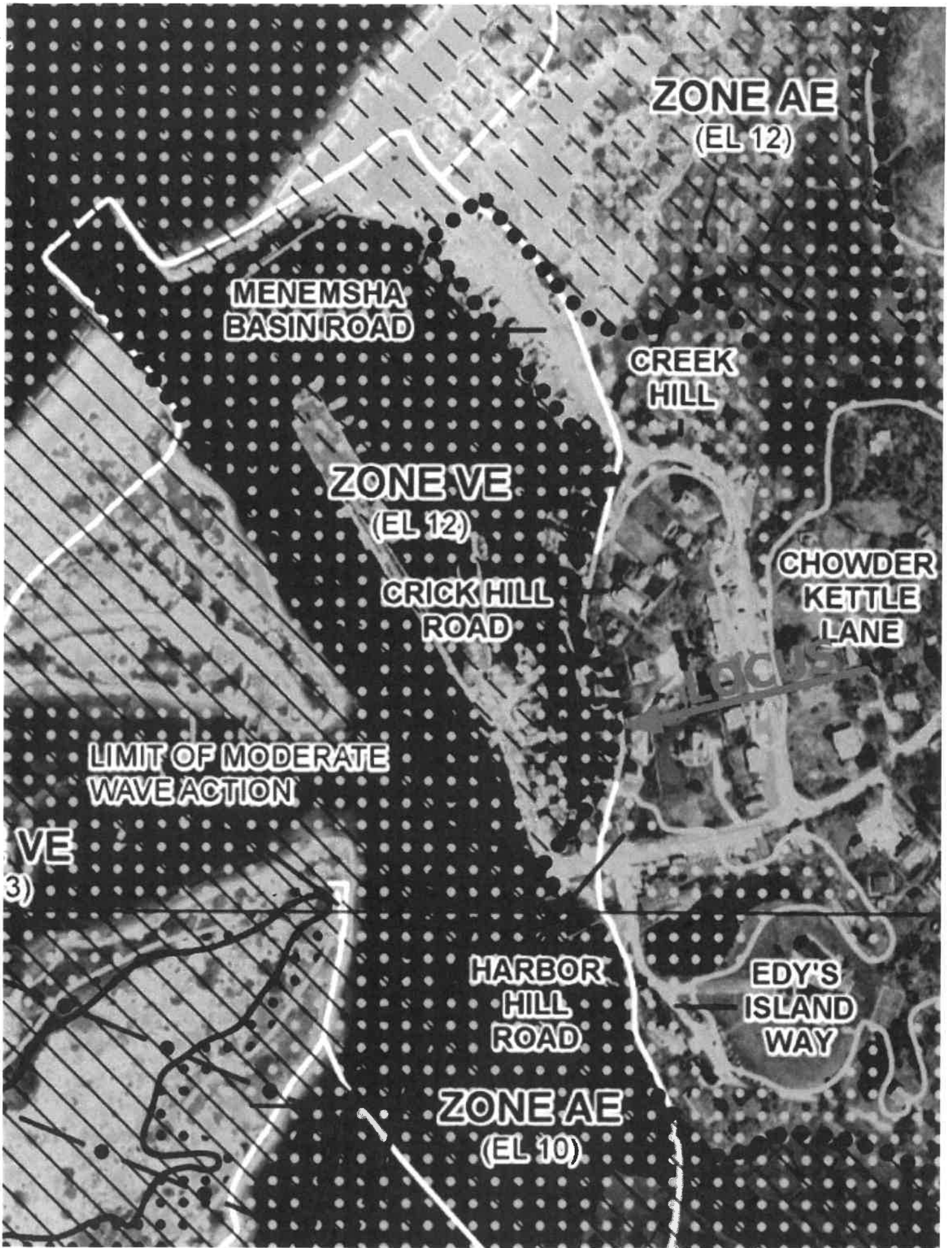
[www.cai-tech.com](http://www.cai-tech.com)

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6/1/2022

Page 5 of 5





**ZONE AE**  
(EL 12)

**MENEMSHA  
BASIN ROAD**

**CREEK  
HILL**

**ZONE VE**  
(EL 12)

**CRICK HILL  
ROAD**

**CHOWDER  
KETTLE  
LANE**

**LIMIT OF MODERATE  
WAVE ACTION**

**VE**  
(3)

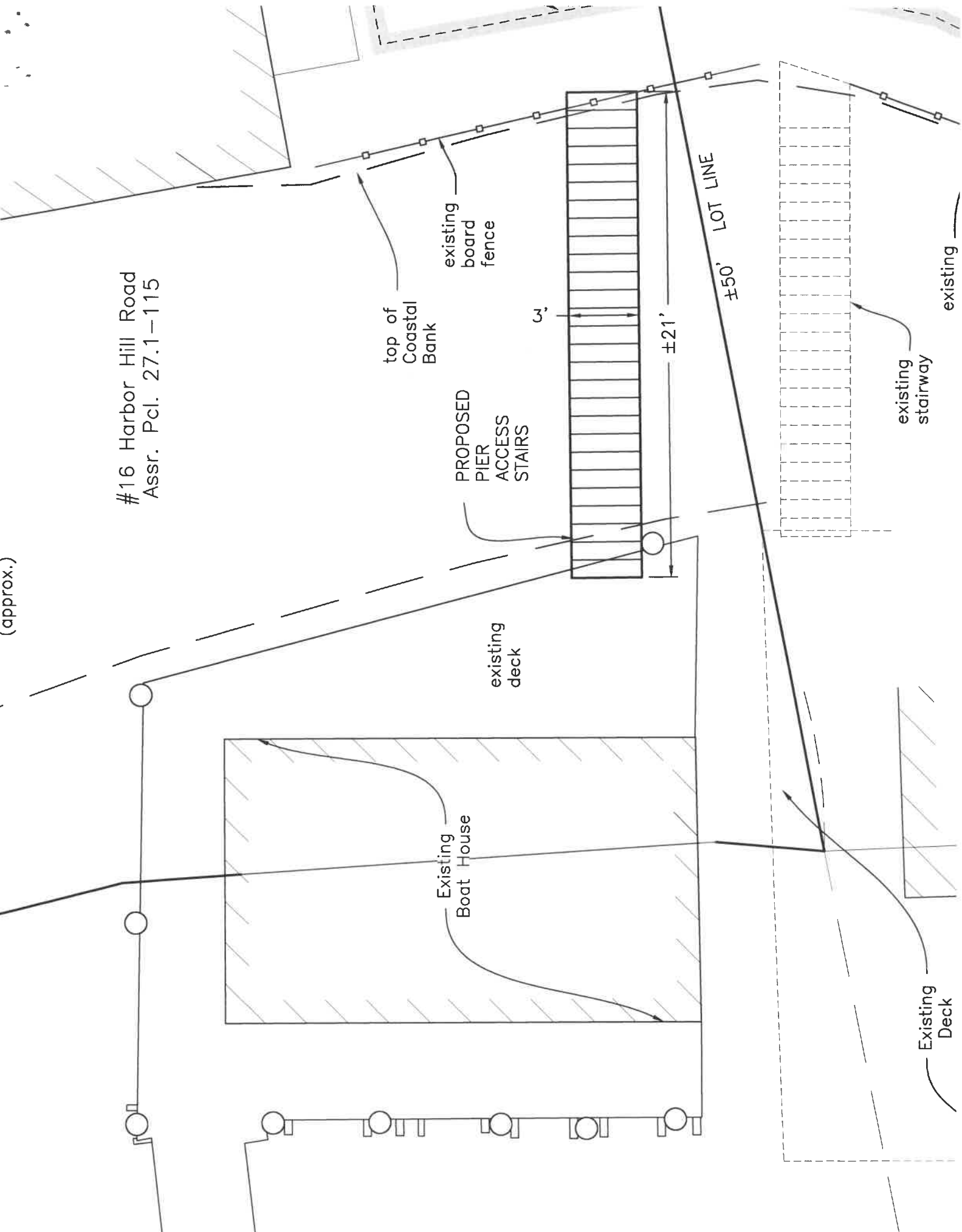
**HARBOR  
HILL  
ROAD**

**EDY'S  
ISLAND  
WAY**

**ZONE AE**  
(EL 10)

#16 Harbor Hill Road  
Assr. Pcl. 27.1-115

(approx.)



top of Coastal Bank

existing board fence

PROPOSED PIER ACCESS STAIRS

3'

$\pm 21'$

$\pm 50'$  LOT LINE

existing stairway

existing

Existing Boat House

existing deck

Existing Deck

**Exhibit C**  
**Order of Conditions**



# TOWN OF CHILMARK

CHILMARK, MASSACHUSETTS

[www.chilmarkma.gov](http://www.chilmarkma.gov)

Conservation Commission

Kara Shemeth,

Conservation Agent

kshemeth@chilmarkma.gov

**TOWN OFFICES:**

Beetlebung Corner  
401 Middle Road  
Post Office Box 119  
Chilmark, MA 02535  
508-645-2104  
508-645-2100 FAX

To: Vineyard Land Surveying

From: Kara E Shemeth, Conservation Agent

Date: July 28, 2022

Subject: SE12-891 - Order of Conditions – Approval

This Order of Conditions is a legal document, please read it carefully and contact the Chilmark Conservation Agent if you have any questions.

The following **MUST** be done prior to the start of work:

1. The Order of Conditions must be recorded at the Dukes County Registry of Deeds (Condition #9). Please e-mail the Conservation Agent with the recording information. The appeal period will expire at the end of the day on **August 11, 2022**. *MA General*
2. A DEP sign with the appropriate file # (SE12-891) shall be displayed at site (MA General Condition #10).
3. An onsite conference between the Conservation Agent and the contractor must take place prior to work beginning (Condition #8).
4. Notification must be given to the Conservation Agent when work is scheduled to take place (Condition #9).
5. The conditions must be adhered to throughout the project.

Please note that any change in the project that deviates from the approved plan requires that the applicant contact the Conservation Commission in writing to determine if the change is significant enough to warrant a new public hearing.

Thank you for your attention to the conditions and best of luck with your project.

Kara E. Shemeth

Chilmark Conservation Agent



**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

Provided by MassDEP:

MassDEP File #:012-0891

eDEP Transaction #:1384543

City/Town:CHILMARK

g. Ground Water Supply       h. Storm Damage Prevention       i. Flood Control

2. Commission hereby finds the project, as proposed, is:

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.

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 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 interests of the Act, 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 310CMR10.02(1)(a). a.            linear feet

**Inland Resource Area Impacts:(For Approvals Only):**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u>          </u> a. linear feet	<u>          </u> b. linear feet	<u>          </u> c. linear feet	<u>          </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u>          </u> a. square feet	<u>          </u> b. square feet	<u>          </u> c. square feet	<u>          </u> d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	<u>          </u> a. square feet	<u>          </u> b. square feet	<u>          </u> c. square feet	<u>          </u> d. square feet
	<u>          </u> e. c/y dredged	<u>          </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u>          </u> a. square feet	<u>          </u> b. square feet	<u>          </u> c. square feet	<u>          </u> d. square feet
Cubic Feet Flood Storage	<u>          </u> e. cubic feet	<u>          </u> f. cubic feet	<u>          </u> g. cubic feet	<u>          </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u>          </u> a. square feet	<u>          </u> b. square feet		

**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

Provided by MassDEP:

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City/Town:CHILMARK

**Cubic Feet Flood Storage**

9.  Riverfront Area

Sq ft within 100 ft

Sq ft between 100-200 ft

<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
<u>                    </u>	<u>                    </u>		
a. total sq. feet	b. total sq. feet		
<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
c. square feet	d. square feet	e. square feet	f. square feet
<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
g. square feet	h. square feet	i. square feet	j. square feet

**Coastal Resource Area Impacts:**

Resource Area

Proposed Alteration      Permitted Alteration      Proposed Replacement      Permitted Replacement

10.  Designated Port Areas

Indicate size under Land Under the Ocean, below

11.  Land Under the Ocean

                                                
a. square feet      b. square feet

                                                
c. c/y dredged      d. c/y dredged

12.  Barrier Beaches

Indicate size under Coastal Beaches and/or Coastal Dunes below

13.  Coastal Beaches

                                                                                                    
a. square feet      b. square feet      c. c/y nourishment      d. c/y nourishment

14.  Coastal Dunes

                                                                                                    
a. square feet      b. square feet      c. c/y nourishment      d. c/y nourishment

15.  Coastal Banks

4  
                                                
a. linear feet      b. linear feet

16.  Rocky Intertidal Shores

                                                
a. square feet      b. square feet

17.  Salt Marshes

                                                                                                    
a. square feet      b. square feet      c. square feet      d. square feet

18.  Land Under Salt Ponds

                                                
a. square feet      b. square feet

19.  Land Containing Shellfish

                                                
c. c/y dredged      d. c/y dredged

                                                                                                    
a. square feet      b. square feet      c. square feet      d. square feet

20.  Fish Runs

Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

                                                
c. c/y dredged      d. c/y dredged

21.  Land Subject to Coastal Storm Flowage

                                                
a. square feet      b. square feet

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22.

Restoration/Enhancement (For Approvals Only)

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 & d or B.17.c & d above, please entered the additional amount here.

\_\_\_\_\_ a. square feet of BVW

\_\_\_\_\_ b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

\_\_\_\_\_ 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 exceed the issuance date of the original Final Order of Conditions.
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.
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..

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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 : "012-0891"

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 Mass DEP.
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.
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 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 Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 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

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- 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.
- 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 19(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 Pollutant 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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(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.
  - 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

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Protection**

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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:**

SEE ATTACHED

**Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

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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 Conservation Commission hereby check one that applies:

a.  DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b.  APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw

CHILMARK  
WETLANDS  
PROTECTION  
BYLAWS

2. Citation 1.02

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:

SEE ATTACHED

**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

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**E. Signatures**

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

7/28/2022

1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

7 6

2. Number of Signers

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:

Joan Malkin

Candy Shweder

Pamela Goff

Sandy Broyard

Russell Maloney

Chris Murphy

Sarah Khedouri

by hand delivery on

by certified mail, return receipt requested, on

Date

8/2/22

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 for 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





## **CHILMARK CONSERVATION COMMISSION**

SE12-891 - Special Conditions - July 28, 2022

RMJ Dock, LLC – 16 Harbor Hill Road (AP 27.1-104)

### **Synopsis**

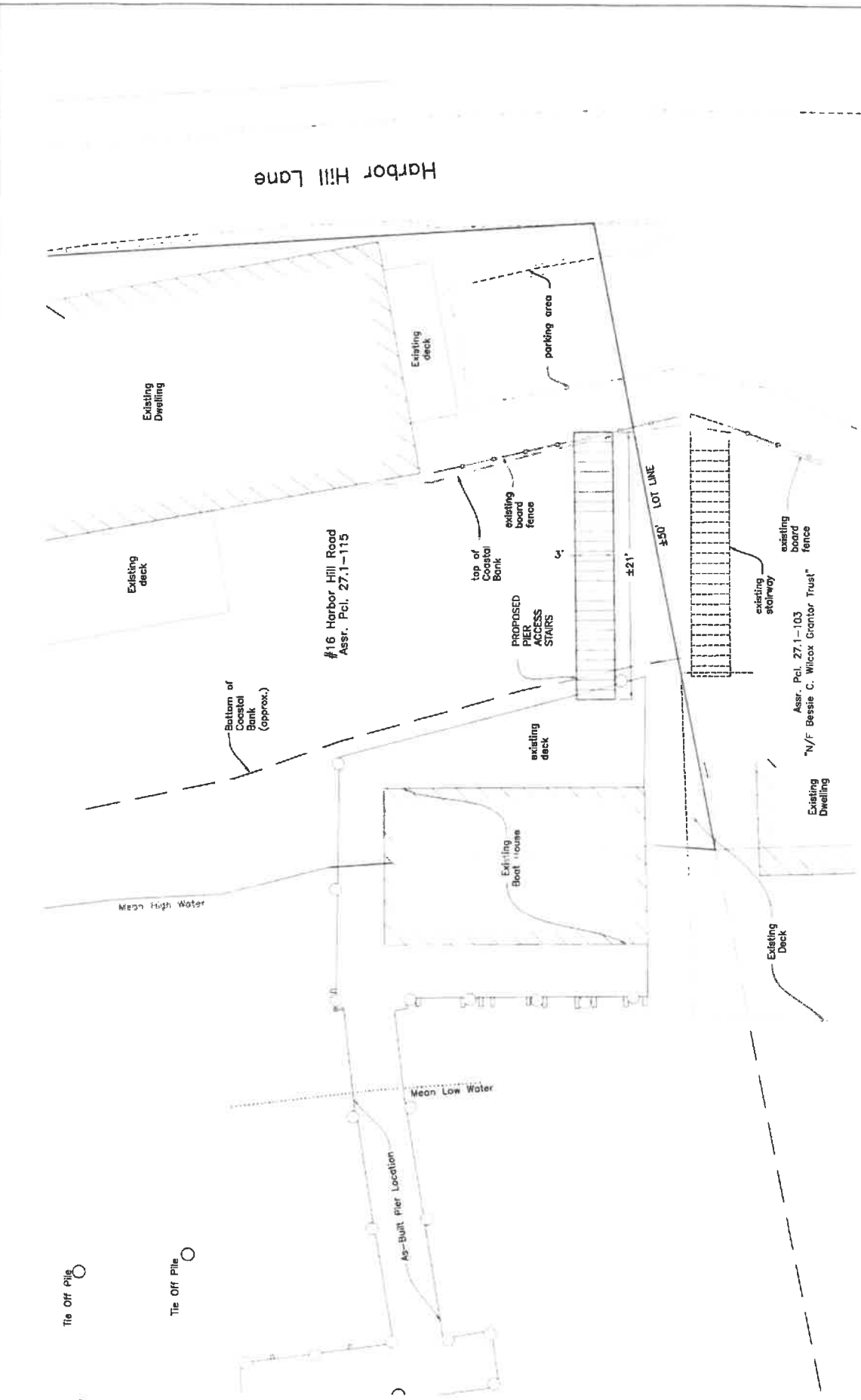
This Order of Conditions allows the applicant to construct and maintain a set of stairs on a Coastal Bank to access an existing pier and boathouse.

The Conservation Commission determined that the project would not have an adverse impact on the stability of the coastal bank (section 2.05(2) (B) or the movement of sediment by wave action (section 2.05(4)B).

The application was approved at the July 19<sup>th</sup>, 2022 hearing of the Chilmark Conservation Commission with 5 "Yes" votes, 1 "No" and 1 abstention.

### **Conditions**

1. A copy of this Order and plan shall be available on site for the duration of construction.
2. Per the General Conditions under Massachusetts Wetlands Protection Act (C. 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. The stairs are to be constructed using butterfly brackets to secure the posts to the ground.
4. Only hand tools are permitted in the construction and maintenance of the stairs.
5. The stairs are to be +/- 12" above grade
6. For the purposes of construction, the vegetation is allowed to be cut 5' x 21' in the location of the stairs, by hand, and in a manner that allows for regrowth ie no pulling of roots.
7. No materials are to be left on site.
8. An on-site meeting between the Conservation Agent and the Contractor is to take place prior to work beginning.
9. Notification is to be given to the Conservation Agent when work is scheduled to begin.
10. Any major rebuilding or replacement of the stairs is subject to the review and approval of the Chilmark Conservation Commission and may require a new Notice of Intent.
11. Subject to condition # 10, this Order allows for the ongoing, regular maintenance of the stairs to ensure safety and the maintenance pruning, by hand, 1' on either side of the stairs. This condition does not expire with the Order of Conditions or the issuance of a Certificate of Compliance as long as the conditions are properly adhered to. Notice is to be given to the Conservation Agent when repairs are to take place.



May 31, 2022

Site Plan  
in Chilmark, Mass.  
Prepared for  
RMJ Dock, LLC  
May 31, 2022 Scale: 1"=5'



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(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.

**G. Recording Information**

This Order of Conditions must be 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 subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

CHILMARK

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

CHILMARK

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

16 HARBOR HILL ROAD

Project Location

012-0891

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner DONALD SMITH

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

**DO NOT RECORD THIS PAGE**

e-mail recording information to:  
kshemeth@chilmarkma.gov

**Exhibit D**

**Letter to Chilmark Conservation Commission for Public Hearing  
July 19, 2022**

LAW OFFICES  
**ERIC L. PETERS**  
(508) 693-8830  
Telecopier (508) 693-8830

Street Address:  
3 MARINER'S LANDING  
EDGARTOWN, MA 02539

Mailing Address:  
POST OFFICE BOX 1117  
EDGARTOWN, MA 02539

July 19, 2022

Chilmark Conservation Commission  
P.O. Box 119  
Chilmark, MA 02535

**By Email**

Re: **RMJ Dock, LLC, 16 Harbor Hill Road, Notice of Intent**

Dear Commissioners:

I am writing on behalf of Donald G. Smith, the owner of premises at 16 Harbor Hill Road in Chilmark, being Lot M on Land Court Plan No. 7706-F as described in his Certificate of Title No. 11907.

There are a number of deficiencies in the Notice of Intent and the plan filed therewith.

While RMJ Dock, Inc. claims to hold a life estate in the wharf and the shop formerly known as "Bosun's Locker" (the "Pier and Boathouse"), they are attached to Mr. Smith's upland and he holds the remainder interest. The applicant skirts the notice provisions of the Wetlands Act by not listing Mr. Smith as the Owner of the premises at Paragraph A.3. of the Notice of Intent

Even more egregiously, the Notice of Intent fails to list Mr. Smith as an abutter and he is not listed (as are all his abutters and neighbors) in the "300 foot Abutter List Report" and accordingly has failed to give proper notice to Mr. Smith.

Regardless of whether the Applicant thinks that the Pier and Boathouse are somehow severed from Mr. Smit's title, the current Notice of Intent is to "Construct and maintain stairs on a coastal bank to access an existing pier and boathouse." These stairs will lie on Mr. Smith's property. The Applicant only has a claimed easement over Mr. Smith's property to access the Pier and Boathouse. This also requires his listing as the property owner at Paragraph A.3.

The only plan presented for the stairs is an overhead view indicating they are 3 feet wide and 21 +/- feet from the top of the bank to the existing deck. There is no profile of the coastal bank as to its slope and height and the height of the stairs at their top and bottom. There are no plans as to the stairs conforming to zoning and applicable railings for safety. There is no mention of the material and color or finish to be used in the "Project Description." What is a "pin anchor system" ? There is nothing to show the disturbance of grade at the top of the stairs.

There is no description as to where material for construction will be stored. The Applicant has no right to park vehicles on the Smith property or to stage material there. Access can only be by foot.

The stairs are shown connecting to the pier in a location where the applicant was required to remove portions of the pier because he had rebuilt the pier in excess of the size allowed in the 2021 Notice of Intent (SE12-855). The portion of the deck between the boathouse and the coastal bank where planking was removed is not shown on the current site plan. See attached photo.

It should be noted that there was a neighborly accommodation over many decades between the Smith family and their predecessors in title and the abutting Wilcox property to the south. The stairs used historically to access the Pier and Boathouse lie on the Wilcox property. Apparently, the misuse of the Pier and Boathouse by the Applicant has resulted in the Wilcoxes erecting a locked gate at the top of their stairway.

While the wharf was connected by stairs to a portion of the Wilcox pier, the applicant has removed those stairs, separating any connection to the Wilcox pier. See the Applicant's revised Site Plan dated 2/4/2020.

So the loss of access to the Pier and Boathouse is the doing of the Applicant.

The letter filed with the Notice of Intent from the Applicant's attorney, William C. Henchy, dated May 12, 2022 to Vineyard Land Surveying completely misstates the circumstances of the stairs when he states on page 2, quoting from the obituary of Robert Flanders, "Robert Flanders gained access to the shanty and dock via the right of way reserved to him in his mother's will."

There have been no stairs on the Smith property to access the Pier and Boathouse. The quotation from the obituary refers, rather, to the red shack on the opposite side of Menemsha Basin that was also owned by Robert Flanders and is now owned by Carl Flanders. Robert Flanders conducted his fishing business from his red shack, not from his mother's property.

As to the easement granted in the Will of Gladys Flanders, it is not clear whether it was intended for the stairs that lie on the Wilcox property.

The Applicant has made no attempt to discuss this Notice of Intent and the location of the stairs with the Smith family as to where the best place to put the stairs will be.

The historic use of boathouses and ancillary piers in Mememsha Basin has been by families where there has been unity of ownership and use of the boathouses and the docks. Here, that unity has been severed. The Applicant has allowed numerous guests of its commercial properties such as the Menemsha Inn and the Beach Plum Inn to use the Pier and Boathouse for sunset cocktails and partying, sometimes as many as 15-20 people, overburdening the use of the property and disturbing the peace of the neighborhood.

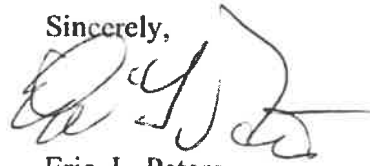
Finally, the Commission should address what the use of the Pier and Boathouse will be made by those who do not reside on the adjoining upland. It is clearly a commercial use, not a residential use.

This matter should be continued and additional information provided by the Applicant.

I would also appreciate additional time to provide further comment after the hearing this morning.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric L. Peters", with a long horizontal flourish extending to the right.

Eric. L. Peters

cc: Mr. Donald G. Smith