



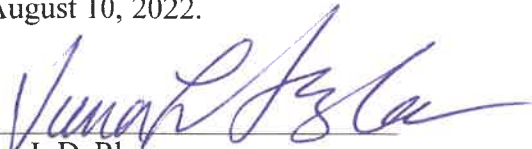
**TOWN OFFICES:**

Beetlebung Corner  
Post Office Box 119  
Chilmark, MA 02535  
(508) 645-2110 Fax

TO: Deborah M. Packer  
FR: Front Desk Chilmark Town Hall  
DT: August 10, 2022  
RE: Receipt of manila envelope addressed to Chilmark Conservation

*Copy*

Diana DeBlase received at 4:20 PM an envelope addressed to Chilmark Conservation  
On August 10, 2022.

  
\_\_\_\_\_  
Diana L DeBlase

*cc. K. Shemeta*

## **COVER SHEET**

**To:**

Department of Environmental Protection

Box 4062

Boston, MA 02211

**From:** Citizens Group Representative

Deborah M. Packer

Post Office Box 82

Menemsha, Ma 02552

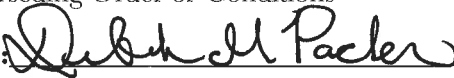
**Appeal Type:**

Citizens Group Appeal of Superseding Order of Conditions #012-0891

**Included in Packet:**

1. Cover Sheet
2. Request for Departmental Action Fee Transmittal Form
3. Appeal Statement
3. Supporting Document's:
  - a. Citizens Group form the Town of Chilmark list of signatures
  - b. Abutters list signatories highlighted
  - c. Order of Conditions pages sighted in appeal
  - d. Certificate of Title: Mr. Donald Smith
  - e. Assignment of Life Estates, Rights, Easement & License: RMJ DOCK LLC
4. Check. # \$120.00 for Superseding Order of Conditions

**Summited for Consideration by:**



Deborah M. Packer. August 10, 2022

**CC by Certified Mail:**

- MassDEP Southeast Regional Office. 20 Riverside Drive, Lakeville, MA 02347
- Vineyard Land Surveying and Engineering P.O. Box 421 West Tisbury, MA 02575
- Chilmark Conservation Commission:  
c/o Chilmark Town Hall P.O. Box 119 Chilmark, MA 0253

THIS DOCUMENT HAS A TRUE WATERMARK. THE FRONT OF THE DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE. ABSENCE OF THESE FEATURES WILL INDICATE A COPY.



MEMO

OFFICIAL CHECK

277072

49-55/1031

DATE August 10, 2022

PAY TO THE ORDER OF \*\*\*Commonwealth of Massachusetts\*\*\*

\*\*\*\$120.00

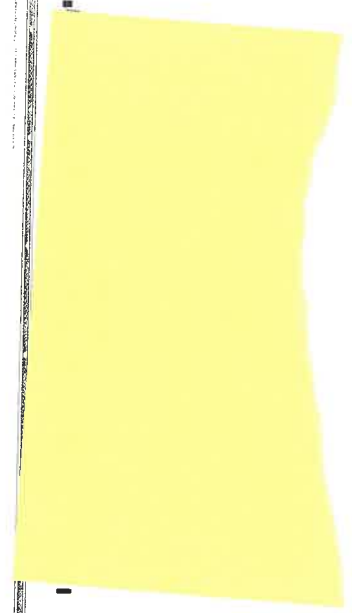
\*\*\* One Hundred Twenty and 00/100 Dollars

Drawer: Martha's Vineyard Savings Bank  
TWO SIGNATURES REQUIRED (\$100.00) OR OVER

*[Handwritten Signature]*  
AUTHORIZED SIGNATURES

ISSUED BY: MONEYGRAM PAYMENT SYSTEMS, INC.  
P.O. BOX 9476, MINNEAPOLIS, MN 55480  
DRAWEE: BOKF, NA  
EUFAULA, OK

⑈ 277072 ⑈





**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**

Provided by DEP \_\_\_\_\_

---

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

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

---

**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.

**Citizen Group**

Robin Smith  
P.O. Box 238  
Chilmark, Ma 02535

Johnathan Mayhew  
P.O. Box 32  
Chilmark, Ma 02535

Christopher Mayhew  
P.O. Box 32  
Chilmark, Ma 02535

John Larsen  
108 Hammet Lane  
Chilmark, Ma 02535

Barbara Fenner  
P.O. Box 94  
Menemsha, Ma 02552  
Chilmark

Janis Syslo  
4 Lobster Lane  
Chilmark, Ma 02535

Amy Miller  
P.O. Box 281  
Chilmark, Ma 02535

Walter Jakinson  
131 North Road  
Chilmark, Ma 02535

Deborah Hancock  
18 Crick Hill Road  
Menemsha, Ma 02535  
Chilmark

Dennis "Denny" Jason  
14 Ridge Hill Road  
Chilmark, Ma 02535

Deboarh Packer  
6 Harbor Hill Road  
Menemsha, Ma 02552  
Chilmark

Howard Grimm  
6 Harbor Hill Road  
Menemsha, Ma 02552  
Chilmark

8/7/22

Signatures of the Concerned Citizens

1. Robin Smith P.O. Box 238 *Robin Smith*  
Chilmark Ma  
02535

2. Songkhal E. Mayhew P.O. Box 32 *font E. Mayhew*  
Chilmark, MA  
02535

3. Christopher A. Mayhew P.O. Box 32 *to me*  
Chilmark, MA  
02535

4. *John A. Larsen*  
John Larsen 108 Hammett Lane  
Chilmark, MA. 02535


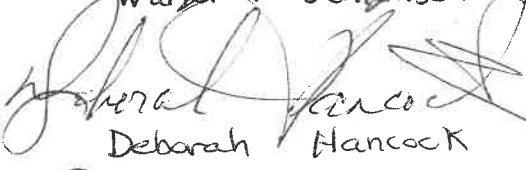
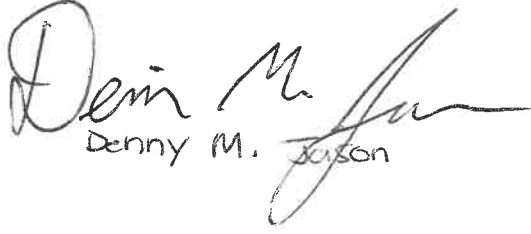
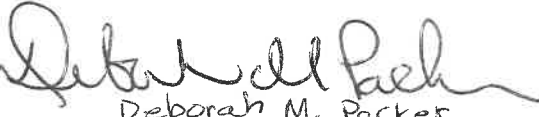

5. *Barbara E. Ferner*  
Barbara E. Ferner P.O. Box 94 Menasha Ma 02552

6. *Janis Syslo*  
Janis Syslo 4 Lobster Ln  
Chilmark, MA  
02535

7. *Amy Miller*  
Amy Miller P.O. Box 281  
Chilmark MA

8/7/22

Signatures of the Concerned Citizens

8.   
Walter A. Jenkinson Jr.  
131 North Road Chilmark
9.   
Deborah Hancock  
18 Creek Hill Road Chilmark
10.   
Denny M. Jenson  
14 Ridge Hill RD  
Chilmark
11.   
Deborah M. Packer  
6 Harbor Hill Rd. Chilmark
12.   
Howard D. Grimm  
6 Harbor Hill Rd CHILMARK



## Appeal Statement

Donald Smith is a 94 year old elder of our community who was born and raised here. We as Concerned Citizens of the Town of Chilmark and Menemsha Basin are appealing this Order of Conditions #012-891, transaction # 1384543. Our intention is to be sure that Donald Smith is represented accurately on all lawful filings and is given the respect and opportunity to have a conversation regarding the placement of the stairs on his private property. Mr. Smith is not disputing the RJM Dock LLC access of an easement. Mr. Smith has not had any notification or conversation with the applicant or any notification or interaction with any Town Board regarding the NOI site plan prepared for RMJ Dock LLC dated May 31, 2022 or the Order of Conditions dated July 28, 2022.

### **Chilmarks Citizens Group concerns in regard to the Order of Conditions are the following:**

#### Page 1 of 11 A. **General Information**

- Line (4) This form does include Donald Smith's name, yet the previous NOI submitted by the applicant did not include Donald Smith's name or signature which was required in order to submit the NOI. It would make this late adjustment of a procedural oversight null and void because the original signature on the NOI does not exist.
- Line (6) The property recorded at the Registry of Deeds for: (c) Book 1216 (d) Page 262. This property is linked to the chain of title of the affected property RJM Dock LLC. The applicant holding the easement not the owner of the property \*Donald Smith Book. 64. Page. 95.  
*\*As outlined in the **General Conditions** on page 4 of 11 (9) Donald Smith as owner of the property would need to be included in the recording of this order at the Dukes County Registry of Deeds before the work can be undertaken.*

#### Page 8 of 11 attached document: **Conditions**

- Line (3) Special conditions of the Conservation Commission of the Town of Chilmark. As presented and agreed upon by the commissioners at the hearing for the Notice of Intent on July 19, 2022, the conditions would include the following but as written does not.
  1. No parking on Donald Smiths property for accessing the stairs.
  2. No storing of personal property on the easement.
  3. No platform leading to the access stairs down the coastal bank.

#### Page 8 of 11 attached document: **Conditions**

- Line (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.

As concerned citizens we feel that this document does not clearly represent the property owner Donald Smith. Mr. Smith being represented on the original abutters list as owner was not sent a notice of intent for the stairs, therefore he was not notified of the hearing. There is no recored easement location to the "Bosun's Locker" and wharf. As concerned citizens of the Town of Chilmark, we feel that that Mr. Smith being unaware of the plans for the stairs and location did not have the opportunity to approve where the

stairs would be placed which is across his private property. Therefore we feel that this order is causing injury to his property as the removal of vegetation planted by his mother in law and the platform for his trash receptacle is being displaced and the stairs are also located in his one and only parking spot for his single family dwelling. In addition, the demolition and replacement of the fencing needs to be addressed. We are concerned if this project moves forward it will continue to be an invasion of his private rights and the overtaking of ownership of Donald Smith's property. We feel that it is an invasion of his private rights as he has been totally disregarded in the permitting process for the stairs which is located on his private property.

Page 8 or 11 attached document: **Synopsis**

As concerned citizens the "Bosun's Locker" is not a "boathouse" nor a single family dwelling, the historic use of this locker by the Smith and Flanders families has always been for the storage of fishing gear. We are concerned that the locker which is located entirely on Mr. Smith's property remain a fishing shack and not become in the future a "boathouse dwelling". This is not the historical use or intent of the "Bosun's Locker", now or in the future of the this real property.

Below is the **Historical Use** written by Robin Smith, the daughter of the property owner Donald Smith. We the undersigned agree with this historical account.

*Historically over the last 68 years the wharf and "Bosun's Locker" have been used for my families fishing boats with only a few people accessing the shared stairs. It has been is a private dock, not used for commercial use or public use. As the Nixon's RMJ Dock LLC. own hospitality businesses, the issue of the docks use has been raised with concern from the abutters in and around "basin" which lies within Menemsha harbor.*

Page 10 of 11 **Recording Information**

Donald Smith's name has been added in this order as property owner to be filed within the chain of the title of his affected property. We as concerned citizens feel that due to the fact that Mr. Smith did not have the opportunity to discuss location of the stairs with his conditions on his property is required. This Order if filed to his title would not reflect his approval of this order. Mr. Smith's needed signature of consent was not filed on the original NOI. With the new Order of Conditions it is necessary to get Mr. Smith's signature to make this a lawfully application.



# 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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6/1/2022

Page 2 of 5



# 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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6/1/2022

Page 3 of 5



# 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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**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

**A. General Information**

1. Conservation Commission **CHILMARK**

2. Issuance a.  OOC b.  Amended OOC

3. Applicant Details

a. First Name \_\_\_\_\_ b. Last Name \_\_\_\_\_

c. Organization **RMJ DOCK, LLC**

d. Mailing Address **P.O. BOX 421 C/O VLS**

e. City/Town **WEST TISBURY** f. State **MA** g. Zip Code \_\_\_\_\_

4. Property Owner

a. First Name **DONALD** b. Last Name **SMITH**

c. Organization \_\_\_\_\_

d. Mailing Address **PO BOX 238**

e. City/Town **CHILMARK** f. State **MA** g. Zip Code **02535**

5. Project Location

a. Street Address **16 HARBOR HILL ROAD**

b. City/Town **CHILMARK** c. Zip Code **02535**

d. Assessors Map/Plat# **27.1** e. Parcel/Lot# **104**

f. Latitude **41.35186N** g. Longitude **70.76552W**

6. Property recorded at the Registry of Deed for:

a. County **DUKES** b. Certificate \_\_\_\_\_ c. Book **1216** d. Page **262**

7. Dates

a. Date NOI Filed : **6/14/2022** b. Date Public Hearing Closed: **7/19/2022** c. Date Of Issuance: **7/28/2022**

8. Final Approved Plans and Other Documents

a. Plan Title: **SITE PLAN IN CHILMARK, MASS. PREPARED FOR RMJ DOCK, LLC** b. Plan Prepared by: **REID G. SILVA, PLS** c. Plan Signed/Stamped by: **REID G. SILVA, PLS** d. Revised Final Date: **5/31/22** e. Scale: **1:5**

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act  
 Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

a. <input type="checkbox"/> Public Water Supply	b. <input type="checkbox"/> Land Containing Shellfish	c. <input type="checkbox"/> Prevention of Pollution
d. <input type="checkbox"/> Private Water Supply	e. <input type="checkbox"/> Fisheries	f. <input type="checkbox"/> Protection of Wildlife Habitat





**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

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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



## **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.

**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

(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



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

MASSACHUSETTS WHARF AND PIER BANK FEE  
PAGE 15,800-  
EXEMPT  
47741 7/6/10 MA  
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

## Transfer Certificate of Title

Cert No: 11907  
Doc No: 83517

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