

August 31, 2014

c/o Anthony Orphanos
Friends of Squibnocket
61 Crosby Street
New York City, NY 10012

**Re: Non-Emergency Road Repairs
Squibnocket Pond/Beach
Chilmark, Massachusetts**

[LEC File #: OrpA\14-006.01]

Dear Friends of Squibnocket,

At a Selectmen's Hearing this past Spring, Squibnocket Farm Homeowners Association (SFHA) voiced concerns that they would not be able to get permits to perform repairs after a Commonwealth-recognized weather event. LEC responded with a memorandum explaining the Commonwealth's Regulations and DEP's procedures. The conclusion was that the Commonwealth's policy is to allow fast response to these events. This memorandum is available on the squibnocket.org website as well as on the Squibnocket Committee's website.

On August 26th, at a meeting with the Squibnocket Town Committee, SFHA voiced a different concern regarding permits for construction activities for 'non-emergency maintenance' or for response to No-Name storms. The purpose of this mail is to address this second set of concerns.

We are not aware of any cases in the Commonwealth where permission for the repair of No-Name storm damage or routine maintenance has been denied for similar applicants under similar conditions and where:

- The damaged access road is the only point of access to the residential area in question;
- The applicant is actively working with the Town to address access issues;
- The applicant is in good standing with the Conservation Commission and the Town;
- The repair is addressing problems caused by No-Name storms or consists of repairs which do not alter existing structures or the underlying resource; and,
- The repairs that are more substantial, involving changes to an underlying resource.

As for the specific procedures for obtaining approval for repairs and maintenance, advance preparation and planning by the relevant parties is required. We would recommend that a Management and Habitat Conservation Plan be developed. The Friends of Squibnocket will make this recommendation when they meet with you on September 16th, but, given the current concern from Squibnocket Farm over permit approvals for maintenance of the roadway and the revetments, we thought it made sense to provide this recommendation now as part of the basis for our response that there should not be delays or issues with maintenance permit approvals. Other Towns with more difficult challenges have received approval of Management and Habitat Plans from their Conservation Commissions. These plans enable the parties with maintenance responsibility for the various natural resources (e.g. barrier beach, coastal dune, and wetlands, etc.) to address maintenance requirements without separate permit applications for each maintenance event through a three year extendable permit that covers all of the maintenance requirements and procedures. This includes protection of rare species, maintenance of fencing for sand deposition and control of human activity, dune maintenance, roadway maintenance, etc. This would enable the maintenance entity to take appropriate action to respond to any maintenance activity that's specified in the Order of Conditions: both routine maintenance events as well as more complex situations where the repair activity changes the underlying natural resource (Barrier Beach, Coastal Dune, Wetland, etc). Examples include:

- Moving a fence which requires digging a hole for the post.
- Excavating to repair the revetment where a toe stone has become dislodged.
- Repairing a dune after overwash.
- Repairing a hole in a road with fill.

The initial release of the Management Plan should be prepared by SFHA and the Vineyard Open Land Foundation and should cover the maintenance of existing assets. As this effort is carried forward, the development of a new management entity should be considered if there are other new assets to support, such as a dune ridge or a bridge.

Should you have any questions or require additional information regarding this proposal, please contact us at 508-746-9491.

Sincerely,

LEC Environmental Consultants, Inc.

Stanley M. Humphries
Senior Coastal Geologist Services