



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

MAR 30 2022

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

Town of Wellfleet
ATTN: Charles Sumner, Town Administrator
300 Main Street
Wellfleet, MA 02667

U.S. National Park Service
Cape Cod National Seashore
ATTN: Brian Carlstrom, Superintendent
99 Marconi Site Road
Wellfleet, MA 02667

RE: COMBINED PERMIT/401 WATER QUALITY CERTIFICATION - AMENDMENT 1
Application for: BRP WW 07 & 10
401 WATER QUALITY CERTIFICATION FOR DREDGING & FILL/EXCAVATION

AT: Chequessett Neck Road, Pole Dike Road, Old County Road, Bound Brook Island Road,
High Toss Road, Way 672, and Herring River Estuary North of the Chequessett Neck
Road Dike
Wellfleet and Truro, MA

401 WQC Transmittal # X287602 (Dredging)
401 WQC Transmittal # X287603 (Fill/Excavation)

Dear Mr. Sumner and Mr. Carlstrom:

The Department of Environmental Protection ("MassDEP") has received your request, dated February 10, 2022, to Amend the Water Quality Certificate (WQC) issued to the Town of Wellfleet and the U.S. National Park Service, Cape Cod National Seashore on September 29, 2021, for the above referenced project. The Amendment requests Standard Combined Permit Condition #5 in the original Water Quality Certification to be deleted and replaced with the following language: "The Town of Wellfleet shall assume and pay all claims and demands arising in any manner from the non-federal work (by non-federal entities on non-federal land) authorized herein, and shall save harmless and indemnify the Commonwealth of Massachusetts, its officers, employees, and agents from all claims, audits, damages, costs and expenses incurred by reason thereof. The Cape Cod National Seashore, as a Federal applicant, shall be liable to the extent permitted under Federal law."

In accordance with the provisions of MGL Ch. 21, §§26-53 and Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 *et seq.*), it has been determined there is reasonable assurance the proposed project will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law. Therefore, MassDEP hereby approves the new language to Standard Combined Permit Condition #5. The other conditions of the original Water Quality Certification, attached herein, shall remain in effect.

Failure to comply with the conditions of the certification is grounds for enforcement, including civil and criminal penalties, under MGL c.21 §42, MGL c.21A §16, 314 CMR 9.00, or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

Should you have any questions relative to this permit, please contact Cally Harper (508) 946-2815, or by e-mail at cally.harper@mass.gov

Sincerely,



Daniel F. Gilmore, Chief
Wetlands & Waterways Program
Bureau of Water Resources

DFG/cjh

ecc: Wellfleet Conservation Commission
Hillary Greenberg-Lemos, Wellfleet Conservation Agent, Hillary.Lemos@wellfleet-ma.gov

Truro Conservation Commission
Emily Beebe, Truro Conservation Agent, ebeebe@truro-ma.gov

Regulatory Division
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U.S. Army Corps of Engineers
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alan.r.anacheka-nasemann@usace.army.mil

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mepa@mass.gov

401 Water Quality Certification - Amendment 1
Herring River Restoration Project
Transmittal Numbers X287602, X287603
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