



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**WPA Emergency Certification Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
 And the Nantucket Wetlands Bylaw (Chapter 136)

**A. Emergency Information**

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



Issuance From: Nantucket Conservation Commission  
 Issuing Authority

1. Site Location: 91-105 Baxter Road

2. Reason for Emergency:  
Eroding Coastal Bank

3. Applicant to perform work: Siasconset Beach Preservation Fund

4. Public agency to perform work or public agency ordering the work to be performed:  
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5. Date of Site Visit: 11/27/2013 Start Date: N/A - denied End Date\*:  
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\* no later than 30 days from start date or 60 days in the case of an Immediate Response Action approved by DEP to address an oil/hazardous material release.

6. Work to be allowed\*:  
No work allowed - see attached

\* May not include work beyond that necessary to abate the emergency.

**B. Signatures**

Certified to be an Emergency by this Issuing Authority.

Signatures:

Ernest Steiner  
 Chairman (or designee)

11/27/2013  
 Date

Robert B. Smith

[Signature]

Michael Glavich (opposed)

A copy of this form must be provided to the appropriate DEP Regional Office.



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**C. General Conditions**

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 Emergency Certification or subject to enforcement action.
2. This Emergency Certification does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of property rights.
3. This Emergency Certification does not relieve the applicant or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. Any work conducted beyond that described above, and any work conducted beyond that necessary to abate the emergency, shall require the filing of a Notice of Intent.
5. 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 Emergency Certification at reasonable hours to evaluate compliance with this Certification, and may require the submittal of any data deemed necessary by the Conservation Commission or the Department for that evaluation.
6. This Emergency Certification shall apply to any contractor or any other person performing work authorized under this Certification.
7. No work may be authorized beyond 30 days from the date of this certification without written approval of the Department.

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**D. Special Conditions**

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**E. Appeals**

The Department may, on its own motion or at the request of any person, review: an emergency certification issued by a conservation commission and any work permitted thereunder; a denial by a conservation commission of a request for emergency certification; or the failure by a conservation commission to act within 24 hours of a request for emergency certification. Such review shall not operate to stay the work permitted by the emergency certification unless the Department specifically so orders. The Department's review shall be conducted within seven days of: issuance by a conservation commission of the emergency certification; denial by a conservation commission of the emergency certification; or failure by a conservation commission to act within 24 hours of a request for emergency certification. If certification was improperly granted, or the work allowed thereunder is excessive or not required to protect the health and safety of citizens of the Commonwealth, the Department may revoke the emergency certification, condition the work permitted thereunder, or take such other action as it deems appropriate.

**DENIAL**

Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40)  
Town of Nantucket Wetlands Bylaw (Chapter 136)

Address: 91-105 Baxter Road  
Applicant: Siasconset Beach Preservation Fund  
Filing Date: November 27, 2013  
Date of Public Hearing: November 27, 2013

**Permit Overview:**

This order denies an emergency certification request to construct a coastal engineering structure, specifically a four geotube system with sand cover from 91-105 Baxter Road based on the findings below made by the Nantucket Conservation Commission.

Code of the Town of Nantucket – Wetlands Bylaw (Chapter 136)

1. The Commission finds that the applicant failed to meet the burden of proof to demonstrate compliance with Section 136-5 (A) that any person requesting to undertake an emergency project shall specify why the project is necessary for the protection of the public health and safety and which agency or subagency of the Commonwealth of Massachusetts is to perform the project or has ordered the project to be performed.
2. The Commission finds that the applicant failed to meet the burden of proof to demonstrate compliance with Section 136-5 (B) that an emergency project shall be issued only for the protection of public health or safety.
3. The Commission finds that the applicant failed to meet the burden of proof to demonstrate compliance with Section 136-5 (C) that the work as proposed was not more extensive than that necessary to abate the emergency which gave rise to that certification.

Wetlands Protection Act M.G.L. Chapter 131 §40

4. The Commission finds that the applicant failed to meet the burden of proof to demonstrate compliance with #26 that the notice of intention required in the first paragraph of this section shall not apply to emergency projects necessary for the protection of the health or safety of the commonwealth which are to be performed or which are ordered to be performed by an agency of the commonwealth or a political subdivision thereof.

Wetlands Regulations – 310 CMR

5. The Commission finds that the applicant has failed to meet the burden of proof to demonstrate compliance with 310 CMR 10.06 (1) that any person requesting permission to do an emergency project shall specify why the project is necessary for the protection of the health or safety of the citizens of the Commonwealth and what agency of the Commonwealth or subdivision thereof is to perform the project or has ordered the project to be performed. If the project is certified to be an emergency by the conservation commission or the Commissioner, the certification shall include a description of the work which is to be allowed and shall not include work beyond that necessary to abate the emergency.
6. The Commission finds that the applicant failed to meet the burden of proof to demonstrate compliance with 310 CMR 10.06 (2) that an emergency certification shall be issued only for the protection of public health or safety.