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Nantucket Conservation Commission  
2 Bathing Beach Rd.  
Nantucket, MA 02554

Re: Siasconset Beach Preservation Fund (“SBPF”) remediation plan enforcement order

Dear Commissioners:

Thank you for considering these comments on behalf of the Greenhill family of Hoicks Hollow Road, whose property may be the largest affected by SBPF’s failure to comply with the Commission’s Order of Conditions over the past five years. As you may recall, we submitted comments on the 2019 and 2020 annual reports, including letters dated March 11 and May 5, 2021 from Dr. David Kriebel, a coastal engineer from Coastal Analytics, LLC. Now, the scientists (Kriebel and Ruthven) have teamed up to propose a remediation plan (attached) to bring the project back into compliance within the next four years. I urge the Commission to adopt such a remediation plan, if -- and only if -- SBPF is willing to strictly adhere to the plan and to the conditions of the Amended Order of Conditions dated November 28, 2018 (“OOC”).

At your hearing last month, the Commission voted unanimously that the project triggered failure criteria of the OOC due to the “Failure to provide the sand mitigation as required herein.” (11/28/18 OOC, ¶ 34a) The empirical evidence in support of the Commission’s finding was overwhelming and incontrovertible:

- “The project site has received the required volume of sand in only one of the sand years since 2015.” (4/16/20 Berman, p. 3);
- “2020 represented the fifth year that SBPF has been in violation of the Failure Criteria set forth in the Order of Conditions relative to mitigation.” (5/6/20 Ruthven, p. 2);
- “As a result, SBPF is now more than two years behind on sand mitigation.” (5/5/21 Kriebel, p. 2); and
- “the net deficit has been increasing over time” (4/16/20 Berman, p. 3); “the cumulative shortfall in mitigation placement has continued to grow” (5/5/21 Kriebel, p. 1).

Now that the Commission has found the project to meet the failure criteria of the OOC, the next step is to “determine how the Applicant shall act to address it.” (11/28/18 OOC, ¶ 35) Before adopting any remediation plan, the Commission should find out first whether SBPF is willing to abide by it and the conditions of the OOC. If not, then it makes little sense to work out the details of a remediation plan for an unrepentant Applicant who remains unwilling to remediate. If SBPF agrees to remediate the failure criteria, then we respectfully request that the remediation plan and OOC be strictly enforced going forward. It should not have taken five years of non-compliance with the OCC before there were consequences, and that should not be allowed to happen again.

Any remediation plan should address at least three elements of the sand mitigation required by the OOC: timing, placement and quality.

1. The timing to catch up and cure the deficiency is a function of balancing the placement of additional sand against the disruption to the Island and immediate neighbors. The scientists’ remediation plan suggests some ways for the Commission to strike that balance. Hopefully, a workable timeframe can be agreed upon that is acceptable to all.
2. The placement should include sand not only atop the geotubes, but also in front and to the sides to create a “sacrificial berm” to distribute sediment to the downdrift littoral system. (10/30/13 memo, Ramsey & Ruthven, p. 2) Placement considerations should recognize that the historical sand deficit has already impacted adjacent beach and bluff, especially to the north, and remedial mitigation sand should be placed strategically to remedy these impacted areas.
3. The remediation plan should also require the sand nourishment to be of a quality that complies with the OOC: “All sand used for mitigation or to fill and cover the Geotubes shall be imported from an off-site source and shall be compatible with the existing bank and beach sediments.” (11/28/18 OOC, ¶ 25) The Commission is well aware of instances in which the sand dumped over the bluff did not meet this standard. Such instances should no longer be tolerated.

In addition to addressing the sand deficiency, the remedial plan should also require SBPF to adhere to the monitoring conditions of the OOC, including using GIS technology as suggested by the scientists. The transfer of data should take the format of X, Y, Z datasets from the surveys. The X and Y represent horizontal coordinates in either Massachusetts State Plane Coordinates, UTM, or Lat/Long depending on the system the data is recorded in. The Z component is elevation. Historically SBPF has reported this from MLW. Converting the elevation data to NAVD88 would match the industry standards and allow for easy incorporation of the datasets collected by SBPF drone surveys and offshore bathymetric surveys which utilize NAVD88 as the baseline.

Finally, no land use board ever wants to confront the unpleasant task of enforcement, particularly with a recalcitrant permit holder. For that reason, the OOC contemplates the Commission may order removal of the geotubes, and set aside an escrow fund for that purpose. (11/28/18 OOC, ¶ 36) If SBPF is unwilling to agree to the terms of an acceptable remediation

plan, removal is the Commission's only option. But even if SBPF does agree, and the Commission implements a robust plan for remediation, it should include removal as the automatic, self-executing consequence to future violations of the plan and OOC. In other words, it should be made clear now that SBPF's choice is to either comply with the plan or remove the geotubes. This should be the last chance to bring the project into full compliance with the OOC.

We look forward to discussing the matter with the Commission at the upcoming hearing on June 30, 2021.

Very truly yours,

/s/ Dennis A. Murphy

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