

DEPARTMENT OF THE ARMY PERMIT

MASS. HIGHWAY DEPARTMENT, 10 PARK PLAZA, BOSTON, MA 02116

Permittee _____

Permit No. 199600817

Issuing Office NEW ENGLAND DIVISION

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

1. Hydraulically dredge 70,500 cy of sediment from 880,000 sf to a maximum depth of -6.0 feet (Mean Low Water datum) at three locations within Sengekontacket Pond for the purpose of obtaining beach nourishment material (Plan Sheets 7-8)

In accordance with plans entitled: "MASSACHUSETTS HIGHWAY DEPARTMENT, INTERIM SHORE PROTECTION PROJECT, OAK BLUFFS/EDGARTOWN" in 8 sheets dated "August 1996".

PROJECT DESCRIPTION CONTINUED ON PAGE 4

Project Location:

**ATLANTIC OCEAN & SENGEKONTACKET POND
OAK BLUFFS & EDGARTOWN, MA**

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on _____. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. No dredging or beach nourishment shall occur during the period Mar. 15 through June 15 of any year. Purpose of this condition is to avoid possible adverse effects to spawning winter flounder and alewives.

SPECIAL CONDITIONS CONTINUED ON PAGE 4

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 38 CFR 325.7 or enforcement procedures such as those contained in 38 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 38 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

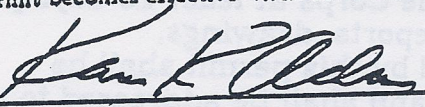
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE)

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


(DISTRICT ENGINEER)


(DATE)

 J. Michael Bradbury
Lieutenant Colonel, Corps of Engineers

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

PROJECT DESCRIPTION CONTINUED FROM PAGE 1.

2. Construct 3 temporary, adjustable wood groins at 400 foot intervals beginning 400 feet south of the southernmost stone groin at Sylvia State Beach, and proceeding south. Each groin is 150 feet in length, and extends between 110 and 150 feet seaward of MHW. Maximum groin elevation is 6.0 (MLWD). Purpose of the groins is to stabilize beach sand at the site, and thereby protect Beach Road from erosion (Plan Sheets 2-6)

3. Discharge the dredged material from 1. above onto 8 acres of beach below the HTL in the area between the North Inlet to Sengekontacket Pond and the southernmost new groin, to final beach grades shown on the plans (Plan Sheets 2-6).

SPECIAL CONDITIONS CONTINUED FROM PAGE 2

2. If dredging and/or beach nourishment occurs during the period June 16 through August 15 of any year, the following agencies shall be notified at least 5 days prior to starting work:

- * U.S. Fish & Wildlife Service, Endangered Species Office, Concord, NH (Susi VanOettingen 603 225-1411, FAX 603 225-1467), and
- * MA Division of Fisheries & Wildlife, Natural Heritage Program, Westborough, MA (Brad Blodgett, 508 792-7270, ext. 150, FAX 508 792-7275)

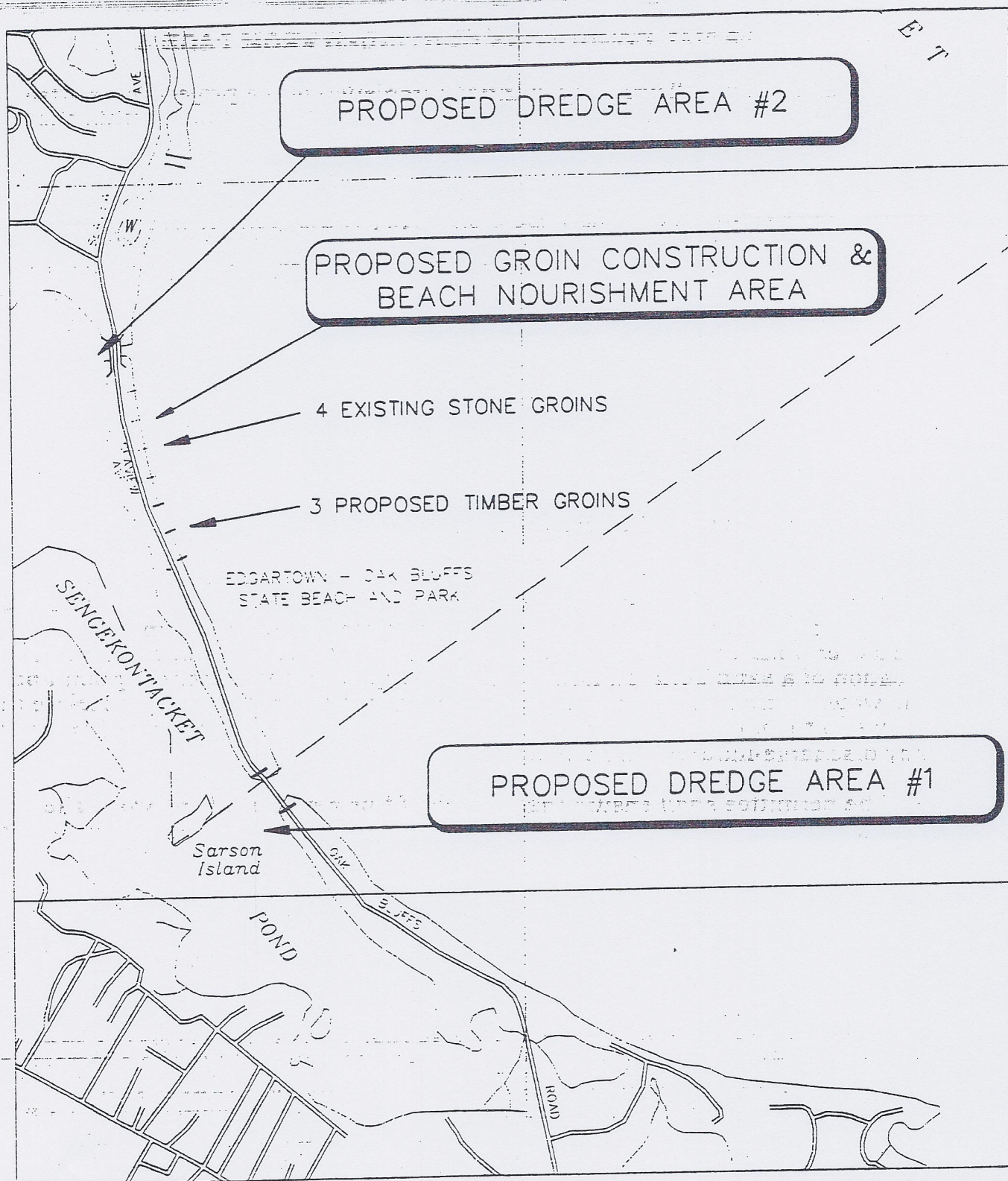
The purpose of this condition is to comply with Section 7 of the Endangered Species Act, and to ensure that all reasonable precautions will be taken to avoid or minimize impacts to nesting plovers.

3. In the event that material other than that dredged from Sengekontacket Pond is proposed for discharge into the groin area on SSB, grain size data representative of the source shall be provided to the Corps at least 15 days prior to starting work. Except where stated otherwise, reports, drawings, correspondence and any other submittals required by this permit shall be marked with the words "Permit No. 1996-00817" and shall be addressed to "Inspection Section, CENED-OD-R, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, MA 02254-9149." Documents which are not marked and addressed in this manner may not reach their intended destination and do not comply with the requirements of this permit. Purpose of this condition is to allow the Corps to assure that sand proposed for use on the beach is physically compatible with native material.

SPECIAL CONDITIONS CONTINUED ON PAGE 5

SPECIAL CONDITIONS CONTINUED FROM PAGE 4

4. Within 60 days following substantial completion of the project, permittee shall submit plans showing pre- and post construction contours within the construction area, and calculations showing the volume of sand discharged into each groin field.
5. Permittee shall conduct periodic monitoring of the groin fields as provided in the document entitled: "BEACH ROAD INTERIM EROSION CONTROL PROGRAM, MONITORING AND MAINTENANCE PROGRAM" dated "9/8/96", copy attached. As provided in that document, permittee shall replenish a groin field when surveys show that there has been a 50% or greater reduction in the volume of sand as calculated in 4. above. Purpose of these two conditions is to provide documentation to the Corps that the utility of the erosion protection project is being ensured by the maintenance of adequate material within the groin areas.
6. Permittee shall provide the Corps with annual reports for the 10 year life of the project, describing monitoring activities during the year, and any re-nourishment or groin adjustment action taken.
7. Discharge of sand onto Sylvia State Beach shall be accomplished in a manner that does not result in a visible plume of turbidity in the water adjacent to the beach. In the event that such a plume becomes evident, remedial measures shall be taken to eliminate the turbidity (such as, but not limited to: creation of a sand berm parallel to the shore between the discharge point and the water to trap silt in the elutriate; deployment of a silt curtain to isolate the plume to the immediate beach area, etc.). Purpose of this condition is to localize any discharge-induced turbidity to the project area.
8. The permittee shall ensure that a copy of this permit is at the work site whenever work is being performed, and that all personnel performing work at the site of the work authorized herein are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and subcontracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized herein. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after the construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or sub-contract as a change order. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers' jurisdiction.



LOCUS PLAN

SCALE: 1" = 2000'

SYLVIA STATE BEACH - OAK BLUFFS, MA.
 PROPOSED GROIN CONSTRUCTION, DREDGING AND
 BEACH NOURISHMENT PROJECT FOR THE PROTECTION OF BEACH ROAD

MARCH 29, 1996

MASS HIGHWAY
 MASSACHUSETTS HIGHWAY DEPARTMENT

SHEET 1 OF 1