

Siasconset Beach Preservation Fund
P.O. Box 2279
Nantucket, MA 02584

October 5, 2022

Ashley Erisman, Chair
Nantucket Conservation Commission
Town of Nantucket,
Nantucket, MA 02554

Dear Ms. Erisman:

As you are aware, a decision was recently issued in the litigation concerning whether the Conservation Commission had operated properly in ordering removal of the current erosion protection geotube project at 87-105 Baxter Road. The Court ruled in the Commission's favor and determined that the Commission was acting within its authority. SBPF is not appealing that ruling.

This project is complex and has been on the leading front of many legal issues related to erosion protection. Several of those questions have been in dispute and have gone to the Massachusetts Department of Environmental Protection and to courts for clarification. SBPF accepts the resolution of this question, and respects the judicial affirmation of the Commission's authority.

Further, SBPF apologizes to the Commission (and to the Town) for allowing the current situation to get to this point for all concerned. SBPF sincerely regrets that we allowed the project to fall out of compliance with the sand delivery requirements of the Order of Conditions issued by the Commission. At the time that started, SBPF hoped to continue to operate the project and protect the community while it sought to make improvements to the project, and we thought that these were potentially about to be approved on a parallel track. As the process took longer and issues arose, SBPF made a series of decisions that improperly led to compliance under the current permit being linked to the approval of a new permit. In retrospect, SBPF should have stayed in compliance, handed the project to another party to maintain compliance, or initiated removal or other actions under the approval of the Commission.

SBPF agrees that proposed changes to the existing system, or any other future action to be reviewed by the Commission are not a basis to fall out of compliance with any active permit, regardless of concerns about the existing permit terms. If at any time in the future if SBPF is unable to meet the legal terms and its financial obligations of its then current permit, including any plan to bring the current project into compliance, SBPF will notify the Commission and Town in a timely manner and will either transfer the project to an acceptable party, terminate the project, or take such other action as the Commission may approve. SBPF hopes that the Commission will accept this recognition in its full sincerity and that we can proceed accordingly in upcoming and future matters.

Sincerely,


Josh Posner, President

Cc: Town Manager, Select Board