



MassWildlife

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Jack Buckley, *Director*

MA ENDANGERED SPECIES ACT (G.L. c.131A) CONSERVATION AND MANAGEMENT PERMIT

DATE	September 21, 2015
CONSERVATION PERMIT NO.:	015-270.DFW
NHESP FILE NO.	05-17135
PERMIT HOLDER	ADM Development Services, LLC c/o James Kane 158 Tihonet Road Wareham, MA 02571
PROJECT	Tihonet East Solar

Pursuant to the authority granted in the Massachusetts Endangered Species Act ("MESA") (G.L.c.131A) and its implementing regulations (321 CMR 10.23), the Director of the Massachusetts Division of Fisheries & Wildlife (the "Division") hereby issues a Conservation and Management Permit (the "Permit") to ADM Development Services LLC ("ADM" or the "Permit Holder"). This Permit authorizes the "taking" of ten (10) pine barrens species that are listed as "Special Concern", "Threatened" or "Endangered" pursuant to the MESA, for the construction of ±6.0 MW solar array in two phases (the "Project") on a ±49.5-acre site (Plan Book 58, Page 867, Plymouth County Registry of Deeds; the "Property") located in the Town of Wareham, Massachusetts. The "taking" applies to the following State-listed species:

Scientific Name	Common Name	Taxonomic Group	State Status
<i>Acronicta albarufa</i>	Barren's Dagger Moth	Butterfly/Moth	Threatened
<i>Callophrys irus</i>	Frosted Elfin	Butterfly/Moth	Special Concern
<i>Catocala herodias gerhardi</i>	Gerhard's Underwing Moth	Butterfly/Moth	Special Concern
<i>Cicinnus melsheimeri</i>	Melsheimer's Sack Bearer	Butterfly/Moth	Threatened
<i>Erynnis persius persius</i>	Persius Duskywing	Butterfly/Moth	Endangered
<i>Hemaris gracilis</i>	Slender Clearwing Sphinx	Butterfly/Moth	Special Concern
<i>Hemileuca maia</i>	Barren's Buckmoth	Butterfly/Moth	Special Concern
<i>Psectraglaea carnosae</i>	Pink Sallow Moth	Butterfly/Moth	Special Concern

Scientific Name	Common Name	Taxonomic Group	State Status
<i>Cicindela patruela</i>	Northern Barrens Tiger Beetle	Beetle	Endangered
<i>Cicindela purpurea</i>	Cow Path Tiger Beetle	Beetle	Special Concern

The project, as proposed, includes the construction of a solar array, access drive, security fence, and associated site work in two (2) phases. As shown on Attachment 1, Phase 1 includes the development of a ±2.8 MW solar array on ±22.54 acres; Phase 2 includes the development of a ±3.2 MW solar array on ±26.96 acres. The Division has determined that the Project will result in a “taking” of the State-listed species above through the permanent loss of approximately ±44.6 acres of pine barrens habitat and disruption to their breeding, feeding, aestivating, and migratory activities.

Under the authority granted by and in accordance with M.G.L. c. 131A, sec. 3 and 321 CMR 10.23, the Director may permit the taking of a State-listed Species for conservation and management purposes provided that there is a long term Net Benefit to the conservation of impacted species. If the Director determines that an applicant for a permit has avoided, minimized and mitigated impacts to the State-listed Species consistent with the following performance standards, then the Director may issue a Conservation and Management Permit, provided:

- (a) the applicant has adequately assessed alternatives to both temporary and permanent impacts to State-listed Species;
- (b) an insignificant portion of the local population would be impacted by the Project or Activity; and
- (c) the applicant agrees to carry out a conservation and management plan that provides a long term Net Benefit to the conservation of the State-listed Species that has been approved by the Director in accordance with 321 CMR 10.23(5) and shall be carried out by the applicant.

The Director has determined that the Permit Holder has met the above noted Performance Standards and that the conservation and management plan described herein provides a long-term Net Benefit to the conservation of the State-listed species above.

This Project is part of the larger ADM Tihonet Mixed Use Development (TMUD) project within a ±6,107-acre parcel located in Wareham, Plymouth, and Carver, Massachusetts. Prior phases of the TMUD have been issued the following Conservation and Management Permits:

009-139.DFW	October 19, 2009	Cranberry Bog Development
009-139.DFW	June 23, 2009	Tihonet Technology Park Phase A1
009-139.DFW	June 2, 2011	Tihonet Technology Park Expansion
011-183.DFW	June 9, 2011	Wankinco Cranberry Bog Expansion
011-185.DFW	June 15, 2011	Charlotte Furnace Solar Project
013-224.DFW	September 16, 2013	Phase C2 Cranberry Bogs/Infrastructure
009-139.DFW	August 4, 2015	Tihonet West Solar

In total, these previously permitted projects will impact ±352.3 acres of mapped or identified potential habitat for the Eastern Box Turtle (*Terrapene carolina*) and/or State-listed pine barrens species. As mitigation for impacts associated with the previously permitted projects, the Permit Holder proposed to permanently protect ±570.0 acres of State-listed species habitat through Division-approved conservation restrictions.

The Permit Holder has elected to implement the following measures in order to meet the long-term Net Benefit mitigation requirements for the State-listed species impacted by the Project: (a) permanently protect ± 47.5 acres of high quality habitat associated with Phase 1, and an additional ± 57.0 acres associated with Phase 2, as open space and State-listed species habitat through Division-approved conservation restrictions (additional to the ± 570.0 acres of mitigation associated with the previously permitted projects described above); and (b) establish a \$45,000.00 fund over a period of four years associated with Phase 1, and an additional \$55,000.00 fund over four years associated with Phase 2, for pine barrens research, habitat management and restoration in southeastern Massachusetts.

Therefore, the Project can be permitted pursuant to the MESA. This Permit is issued to condition the Project, as set forth below, and provide a long-term Net Benefit to the State-listed species above.

In accordance with the documents submitted to the Division entitled:

- "Limit of Work Plan Tihonet East Solar Figure 1" (dated January 8, 2015; prepared by Beals and Thomas, Inc.; Attachment 1)
- Draft Conservation Restriction (Attachment 2)
- Draft License Agreement (Attachment 3)
- Draft Escrow Agreement (Attachment 4)

and any other plans and documents referenced herein, this Permit is issued with the following conditions:

General Conditions:

1. The Proposed Project authorized by the Conservation and Management Permit shall be completed within ten (10) years of the date of issuance of this Permit. If needed, the Permit Holder shall submit a written request to the Division for an extension of time to complete said Project and the Division will review the Project pursuant to MESA for any continuing impacts as described herein and for any new impacts to any State-listed species found subsequent to the issuance date of this Permit.
2. This Permit shall not preclude the review of future projects on the Property that are subject to the Wetlands Protection Act regulations (310 CMR 10.37, 10.58(4)(b), 10.59), as applicable, by the Natural Heritage & Endangered Species Program ("NHESP") of the Division.
3. The work authorized by this Permit involves the construction of a ± 6.0 MW solar array, access drive, security fence, and associated site work in two (2) phases on a ± 49.5 -acre site (the "Work"). Phase 1 includes the development of a ± 2.8 MW solar array on ± 22.54 acres; Phase 2 includes the development of a ± 3.2 MW solar array on ± 26.96 acres. The Work shall only occur within the limit of work shown on Attachment 1. The Work also includes any other on-site activity required by the Division as a condition of this Permit.
4. Division representatives shall have the right to enter and inspect the Property subject to this Permit at reasonable hours to evaluate Permit compliance and require the submittal of any reasonable information not otherwise required by this Permit but deemed necessary by the Division to complete its evaluation. At the commencement of any such inspection the Division shall report to the Permit Holder's offices at 158 Tihonet Road, and ADM shall have the right to accompany the Division on any such inspections, provided however that ADM shall have the right to postpone inspections due to safety concerns related to agricultural

operations on the Property.

5. Any proposed change which alters the limit of Work on the Property, as shown on any plan identified in this Permit, or to the State-listed species conservation plan required by way of this Permit, shall require the Permit Holder to inquire of the Division, in writing, whether the change is significant enough to require the filing of a new Conservation and Management Permit Application and/or require additional long-term Net Benefit for the affected State-listed species. The Division retains the right to require the submittal of additional, reasonable information to evaluate the plan change.
6. This Permit shall apply to, and inure to the benefit of, the Permit Holder and any successor-in-interest of the Permit Holder, or to a subsequent successor-in-control of the Property or portion thereof subject to this Permit should the Permit Holder convey its record of ownership of the Property to said successor-in-control, as well as to any contractor or other person performing work conditioned by this Permit. Within five (5) business days of the transfer of an interest in the Property or a portion thereof, any successor-in-interest of the Property or a portion thereof shall provide the Division with a letter indicating (1) that the successor is the successor-in-interest of the Permit Holder in the Property or a portion thereof, and (2) that said successor will perform the obligations of the Permit Holder as set forth in this Permit with respect to the applicable portion of the Property now owned by them.
7. The Permit Holder's representative responsible for compliance with this Permit is James Kane, A.D. Makepeace Company, 158 Tihonet Road, Wareham, MA 02571, business telephone number (508) 295-1000, cell phone number (508) 728-0476. The Permit Holder shall provide updated information in writing to the Division should any such new or additional project supervisors and/or contractors be hired after Work has commenced. Within three (3) business days of the start of Work, the Permit Holder shall send a letter to the Division stating the date upon which Work commenced. Within two (2) weeks of receipt of said letter, the Division shall provide the Permit Holder's representative with contact information for the appropriate Division staff representative with whom the Permit Holder should coordinate.
8. Prior to the start of Work on the Property, the text of this Permit shall be recorded by the Permit Holder in the Registry of Deeds of the Land Court for the district in which the Property is located so as to become a record part of the chain of title of the Property. In the case of recorded land, the Permit shall be noted in the Registry's Grantor Index under the name of the owner of the Property upon which the proposed Work is to be done. In the case of registered land, the Permit shall be noted on the Land Court Certificate of Title of the owner of the Property upon which the proposed Work is to be done. The Permit Holder shall submit to the Division a date-stamped and signed copy of said recorded Permit showing the date and book and page of recording of said Permit within five (5) business days after recording and/or filing, as applicable. No Work shall begin on the Property until the Permit is recorded and said recorded copy is submitted to the Division, except as otherwise approved by the Division in writing.
9. At the completion of Work on the Property, or the completion of Phase 1 or Phase 2, the Permit Holder shall submit a written request to the Division for a Certificate of Permit Compliance or may submit a written request for Partial Certificate of Compliance, as applicable, including as-built plans and other supporting materials demonstrating the completion of the Work or Phase and compliance with all conditions herein.
10. Any land protected subject to a conservation restriction under this Permit in order to achieve a long-term Net Benefit to State-listed species shall remain protected in perpetuity.

11. The Permit Holder shall comply with all Conditions and Special Conditions contained within this Permit and complete the Work on the Property consistent with all Division-approved plans and supporting documents, except as otherwise approved by the Division in writing.
12. A violation of any condition of this Permit will result in an unauthorized Take pursuant to M.G.L. c.131A and may be subject to civil and or criminal penalties to M.G.L. c.131A.

Special Conditions:

13. Authorized Construction and Uses: This Permit authorizes construction and uses on the Property as described herein. All Work shall be confined to the area of the Property within the limit of Work shown on Attachment 1, with the exception of habitat restoration, habitat management, and other activities specifically authorized to take place within areas to be protected by way of this Permit. Prior to initiating Work in a given portion of the Property, the Permit Holder shall take all reasonable measures to ensure that Work and land clearing are confined to the area within the authorized limit of Work, including, but not limited to, staking and flagging said limit of Work under the supervision of a licensed land surveyor, and notifying equipment operators of the location of said staking and flagging.
14. Habitat Protection Areas, Management and Restoration: The Permit Holder, in order to provide a long-term Net Benefit for the conservation of the State-listed species noted herein, has chosen to permanently protect ± 38.6 acres of habitat associated with Phase 1, and ± 46.2 acres of habitat associated with Phase 2, through the recording of Division-approved conservation restrictions. Additionally, as an alternative to funding or undertaking habitat management and restoration activities, including long-term habitat maintenance, the Permit Holder shall instead permanently protect an additional ± 8.9 acres of habitat associated with Phase 1 and ± 10.8 acres of habitat associated with Phase 2 through the recording of Division-approved conservation restrictions.

Therefore, prior to the start of Work on Phase 1, the Permit Holder shall provide to the Division a draft recordable conservation restriction plan for a parcel of land consisting of not less than ± 47.5 acres to be protected in perpetuity as habitat for state-listed pine barrens species (the "Phase 1 Habitat Parcel"). Prior to the start of Work on Phase 2, the Permit Holder shall provide to the Division a draft recordable conservation restriction plan for a parcel of land consisting of not less than ± 57.0 acres to be protected in perpetuity as habitat for state-listed pine barrens species (the "Phase 2 Habitat Parcel"). Said draft recordable plans shall include parcel boundaries as well as the location and design of permanent monumentation and signage. Commencement of vegetation clearing, soil disturbance, and/or construction within the limit of Work of Phase 1 or Phase 2, as shown in Attachment 1, shall constitute the start of Work for each respective Phase.

Unless otherwise approved in advance by the Division, Phase 1 and Phase 2 Habitat Parcels shall be located on land in the Town of Plymouth and located west of Myles Standish State Forest. The Habitat Parcels may include additional habitat to address, in whole or in part, mitigation requirements associated with previous and/or future phases of the TMUD permitted by the Division. Notwithstanding anything foregoing to the contrary, if other phases of the TMUD do not occur chronologically, the Permit Holder will coordinate with the Division to apportion required mitigation lands such that said lands are continually protected in a westerly progression.

The required conservation restrictions will be granted to the Commonwealth or to any nongovernmental organization ("NGO") or third party determined to be qualified by the

Division, or may be granted jointly to the Commonwealth and a qualified NGO or other qualified third party. If applicable, the Division agrees to consult with the Permit Holder in determining whether an NGO or other third party is qualified to hold, solely or jointly with the Commonwealth, the conservation restrictions required under this Permit.

The Permit Holder shall provide draft conservation restrictions to the Division for review and approval, which shall be in substantially the same form as Attachment 2 or in another form acceptable to the Division. Any changes to the text of the conservation restrictions must be approved in writing by the Division prior to recording. **Prior to the start of work on either Phase, the conservation restriction associated with that Phase shall be executed and recorded in the Registry of Deeds or the Land Court, as applicable, for the district in which the Property is located so as to become a record part of the chain of title for the Property.**

The Division may undertake, at reasonable times and with reasonable notice to the Permit Holder, habitat management and restoration activities on the Habitat Parcels, including but not limited to mowing, clearing, brush-hogging, tree removal and fire treatment (“Habitat Management Work”). Prior to undertaking any Habitat Management Work, the Division and the Permit Holder shall enter into a License Agreement in substantially the same form as Attachment 3.

15. Conservation Restriction Monumentation & Signage: Within thirty (30) business days of recording said conservation restrictions, the Permit Holder shall provide the Division with a letter from a licensed surveyor certifying that permanent monumentation and signage have been installed in accordance with the Division-approved conservation restriction plan. The Permit Holder shall maintain, repair and replace said monumentation and signage as necessary.
16. Pine Barrens Research & Conservation Fund: The Permit Holder will establish a \$45,000.00 fund over a period of four years associated with Phase 1, and an additional \$55,000.00 fund over four years associated with Phase 2, to fund pine barrens conservation research, habitat management and restoration in southeastern Massachusetts in accordance with the procedures and timelines set forth in the Escrow Agreement (Attachment 4). Any changes to said Escrow Agreement, other than typographical or grammatical changes, must be approved in writing by the Division before the escrow is established.
17. Amendment of Permit to Cover Other Portions of the Property: Pending receipt of necessary approvals from the Executive Office of Energy & Environmental Affairs, pursuant to MEPA, the Permit Holder may at its sole discretion request that this Permit be amended to apply to the Property or other portions of the broader property subject to MEPA review. The Division may at its sole discretion accept the request for Permit amendment and impose additional conditions as necessary, or deny the request, at which point the Permit Holder will be subject to MESA review procedures in effect at the time, if any.
18. Future Uses of Project Area: If and when the proposed solar array(s) ceases to exist and a new project is proposed on the Property, the Permit Holder shall provide the Division with a project description and project plans for review and written approval. The Division reserves the right to require additional measures to avoid and/or minimize any additional impacts to State-listed species associated with a change in use of the Property, except that additional conservation lands or funding shall not be required for disturbances within the permitted limit of Work.
19. Notice of Appeal Rights: This Determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.23. Any person aggrieved by this decision shall have the

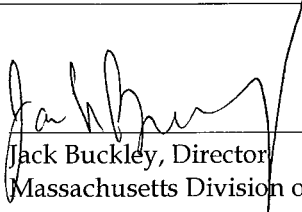
right to an adjudicatory hearing at the Division pursuant to M.G.L. c. 30A, s.11 in accordance with the procedures for informal hearings set forth in 801 CMR 1.02 and 1.03.

Any notice of claim for an adjudicatory hearing shall be made in writing and be accompanied by a filing fee in the amount of \$500.00. The notice of claim shall be sent to the Division by certified mail, hand delivered or postmarked within twenty-one (21) days of the date of the Division's Determination to:

Jack Buckley
Director
Division of Fisheries and Wildlife
Field Headquarters
One Rabbit Hill Road
Westborough, MA 01581

Any notice of claim for an adjudicatory hearing shall include the following information:

1. The file number for the project;
2. The complete name, address and telephone number of the person filing the request, and the name, address and telephone number of any authorized representative;
3. The specific facts that demonstrate that a party filing a notice of claim satisfies the requirements of an "aggrieved person," including but not limited to (a) how they have a definite interest in the matters in contention within the scope of interests or area of concern of M.G.L. c. 131A or the regulations at 321 CMR 10.00 and (b) have suffered an actual injury which is special and different from that of the public and which has resulted from violation of a duty owed to them by the Division;
4. A clear statement that an adjudicatory hearing is being requested;
5. A clear and concise statement of facts which are grounds for the proceeding, the specific objections to the actions of the Division and the basis for those objections; and the relief sought through the adjudicatory hearing; and a statement that a copy of the request has been sent by certified mail or hand delivered to the applicant and the record owner, if different from the applicant.

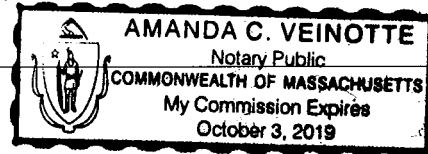


Jack Buckley, Director
Massachusetts Division of Fisheries & Wildlife

On this 21st day of September, 2015, before me, the undersigned notary public, personally appeared Jack Buckley, Director, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.



Amanda C. Veinotte, Notary Public
My Commission expires: October 3, 2019



Conservation Permit 015-270.DFW

Issued this 21st day of September, 2015

Work must be completed by: 21 September 2025

ACKNOWLEDGEMENT AND ACCEPTANCE OF ALL TERMS OF THIS CONSERVATION PERMIT

The undersigned below agrees that commencement of any work authorized by and described in this Conservation and Management Permit constitutes acknowledgement and acceptance of all terms of this Permit.

Signatory 1 Organization

COMMONWEALTH OF MASSACHUSETTS

On this _____ day of _____, 201__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

Notary Public

SEAL

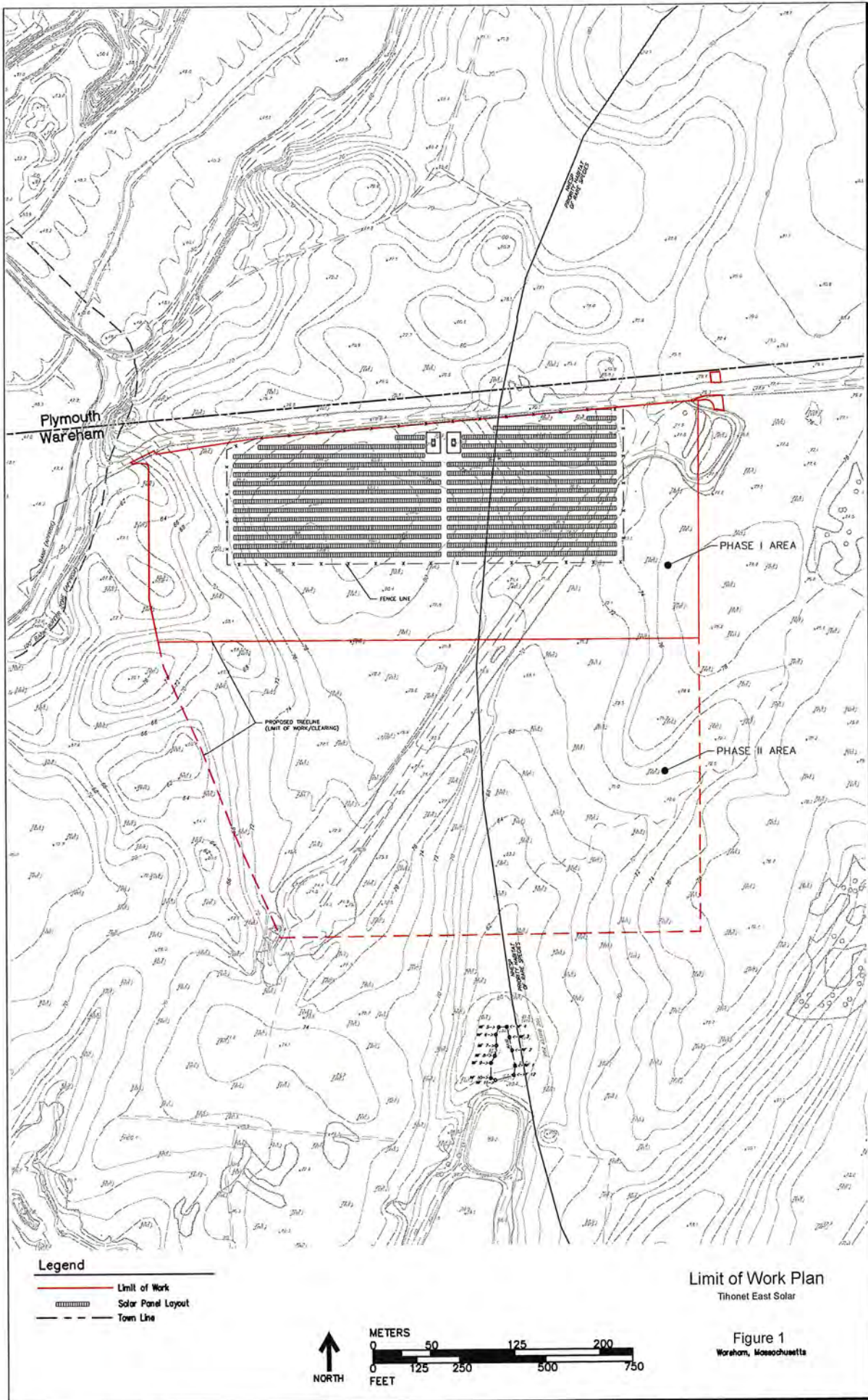
My commission expires: _____

Distribution List

Lauren Liss, Rubin & Rudman
Stacy Minihane, Beals & Thomas, Inc.
Sarah Stearns, Beals & Thomas, Inc.
Town of Wareham Board of Selectmen
Town of Wareham Conservation Commission
Town of Wareham Planning Board
Deirdre Buckley, MA Environmental Policy Act Office
Jason Zimmer, MA DFW Southeast District Office

Attachment 1

“Limit of Work Plan Tihonet East Solar Figure 1” (dated January 8, 2015; prepared by Beals and Thomas, Inc.)



Attachment 2

Draft Conservation Restriction

**CONSERVATION RESTRICTION – ADM CR-MX through MX
TO
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF FISH AND GAME**

A.D. Makepeace Company, a Massachusetts corporation with an address of 158 Tihonet Road, Wareham, Massachusetts 02571, being the sole owner, for its successors and assigns (“Grantor”), acting pursuant to Sections 31, 32 and/or 33 of Chapter 184 of the Massachusetts General Laws, hereby grants to the Commonwealth of Massachusetts, acting through its Department of Fish & Game and its permitted successors and assigns (“Grantee”), for consideration of \$1.00, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction ADM CR-MX through CR MX [hereinafter “Conservation Restriction”] on NUMBER parcels of land located in the Town of Plymouth, Massachusetts constituting XX acres, more or less, shown as parcels CR-MX through CR-MX on a plan entitled “Conservation Restriction Plan of Land in Plymouth, MA (Plymouth County), dated DATE, prepared by Beals and Thomas, Inc., Plymouth, Massachusetts, and more thoroughly described in Exhibit A attached hereto as (the “Premises”). For Grantor’s title see Plymouth County Registry of Deeds Book XX, Page XX.

This Conservation Restriction (1) may be used to meet the requirements contained in Conservation and Management Permit Number XXX-XXX.DFW dated DATE (the “Permit”), recorded in said Registry in Book 44393 at Page 74 and incorporated by reference herein issued by the Massachusetts Division of Fisheries and Wildlife (Division), acting by and through its Natural Heritage & Endangered Species Program (NHESP), and (2) may also be used to meet the requirements of future Conservation and Management Permits to be issued by the Division. Grantee shall consult closely with NHESP on all Grantee decisions, actions, and responsibilities under this Conservation Restriction.

I. Purposes:

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Law and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained as rare species habitat in perpetuity and for conservation purposes, predominantly in a natural, scenic, and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values.

These values include the following:

A. Open Space Preservation.

The protection of the Premises contributes to the protection of the scenic and natural character of Plymouth and the protection of the Premises will enhance the open space value of these lands, particularly given the proximity to Myles Standish State Forest.

B. Protection of Wildlife Habitat.

Some or all of the Premises falls within an area designated as “Priority Habitat for State-Protected Rare Species” by NHESP. Conservation of the Premises will protect habitat used by a variety of special concern, threatened, and rare plants, insects, and turtle species.

C. Massachusetts Endangered Species Act.

This Conservation Restriction is granted (1) pursuant to and in accordance with the requirements set forth in Conservation and Management Permit Number XXX.XXX.DFW dated DATE issued by the Division acting through the NHESP, recorded in said Registry in Book 44393 at Page 74, and incorporated herein by this reference (“Permit”) and (2) in anticipation of requirements of future conservation and management permits to be issued by the Division.

II. Prohibited Acts and Uses, Exceptions Thereto and Permitted Uses

A. Prohibited Acts and Uses.

Subject to the exceptions herein and the reserved rights and exceptions set forth in Sections B and C below, the Grantor will neither perform nor allow others to perform the following acts and uses which are prohibited on, above, and below the Premises to the extent that they are not already present:

1. Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip or mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;

2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource of natural deposit, or otherwise making topographical changes to the area;

3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks;

4. Cutting, removing or otherwise destroying trees, grasses or other vegetation;

5. Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to the conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may, subsequent to the recording of this Conservation Restriction, be used towards building or development requirements on this or any other parcel, except that Transfer of Development Rights within the Conservation Restriction parcel that are created by the time of recording of this Conservation Restriction may be landed;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation;

7. Use, parking or storage of motor vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicle on the Premises except for vehicles necessary for public safety (i.e. fire, police, ambulance, other government officials) in carrying out their lawful duties, and in carrying out habitat management activities;

8. The use of the Premises for more than de minimis commercial recreation, business, residential or industrial use of the Premises;

9. Any other use of the Premises or activity thereon which is inconsistent with the purposes of this Conservation Restriction or which would materially impair its conservation interests, unless necessary for the protection of the conservation interests that are the subject of this Conservation Restriction.

B. Reserved Rights and Exceptions.

Notwithstanding Paragraph A above, the Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such activities or uses do not materially impair the conservation values or purposes of this Conservation Restriction interest:

1. Recreation Activities. Fishing, boating, hiking, horseback riding, cross country skiing, hunting, trapping, and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not materially degrade environmental quality, and do not involve more than de minimis use for commercial recreational activities.

2. Incidental removal. Excavation, disturbance, and removal from the Premises of soil, gravel and other mineral resource of natural deposit as may be incidental to the maintenance of good drainage, habitat management or to other permissible use of the Premises.

3. Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not have a deleterious impact on the purposes of this Restriction.

4. Trails. The creation, marking, clearing, and maintaining of trails, (a) subject to the prior written approval of Grantee which approval shall not be unreasonably withheld, and (b) in consultation with the Town of Plymouth. Specifically, Grantee and Grantor may lay out on the property, where mutually agreed upon, reasonable trails for public passive outdoor recreational activities such as cross country skiing, cross country running, hiking, bicycling and similar uses not inconsistent with the purposes of the Conservation Restriction; shall allow for the construction, maintenance, repair, marking and identifying with signs, and use of said trails for the above permitted recreational activities; and shall allow the periodic use, following written notification to the Grantee, of motorized vehicles for the purpose of maintaining such trails. Grantor and Grantee shall consult with said town regarding the location and stewardship of such trails.

5. Habitat Management. Any and all habitat management, maintenance, monitoring and other activities conducted in accordance with the Permit.

6. Signs and Fences. The erection, maintenance and replacement of signs and fences that do not interfere with the conservation purposes of this Conservation Restriction.

7. Digging, drilling and/or maintenance of water wells, provided that the siting of said wells is approved in writing in advance by Grantee.

8. Selective cutting of trees and other vegetation for fire protection, unpaved trail and road maintenance, or state-listed species habitat management.

9. Erection of signs by the Grantor or Grantee identifying the Grantee as holder of the restriction and to educate the public about the conservation values protected and any limitations relating to public access.

10. Cutting, maintaining, monitoring, and altering of vegetation and all other activities conducted in compliance with a Permit issued by NHESP or by the Grantee or as otherwise approved by Grantee.

11. Installation, maintenance and operation of wind turbine and/or hydroelectric power utilities and related infrastructure, provided that said utilities and related infrastructure do not materially interfere with the conservation purposes of this restriction, including but not limited to the protection and management of habitat, and subject to advance written approval of Grantee.

12. Performance of activities in conjunction with mitigation commitments made pursuant to existing and future Certificates from the Secretary of Energy and Environmental Affairs relating to the Massachusetts Environmental Policy Act review of the overall ADM Tihonet Mixed Use Development Project. Such activities include but are not limited to studies or other actions relating to greenhouse gas emissions/sequestration, water/wastewater issues, etc. undertaken in conjunction with state agencies or Grantee-approved non-governmental organizations (provided that such permitting/mitigation does not involve alteration of the land subject to this Conservation Restriction).

13. Grantor reserves all rights, agricultural, recreational, or otherwise, relating to open water.

14. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with the then-current zoning, the Massachusetts Wetlands Protection Act, the Massachusetts Endangered Species Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.

C. Notice and Approval.

Unless otherwise noted herein, whenever notice to or approval by Grantee is required under the provisions of Paragraph A or B, Grantor shall notify Grantee and NHESP in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, the Permit number, and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction.

All proposed activities and uses by Grantor under Section II (B) that require Grantee's approval shall be reviewed by NHESP for compliance with the Permits. NHESP shall advise Grantee in writing within 30 days of receipt of said Notice whether said requested activity or use complies with said Permit. Any determination by NHESP that such requested activity or use does not comply with said Permit shall require GRANTEE to not approve said activity or use unless said activity or use is modified if and as required by NHESP. Any determination by NHESP that such requested activity or use does comply with said Permit shall require GRANTEE to approve said activity or use. Failure of NHESP to so notify Grantee within said 30-day period shall constitute a determination by NHESP and Grantee that said activity or use is in compliance with said Permit.

Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity or use shall not materially impair the purposes of this Conservation Restriction. Failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after sixty (60) days in the notice.

III. Legal Remedies of the Grantee

A. Legal and Injunctive Relief.

The rights hereby granted shall include the rights to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for enforcement of this Conservation Restriction.

The Grantor covenants and agrees to reimburse the Grantee for all reasonable costs and expenses (including without limitation counsel fees) incurred in enforcing this Conservation Restriction against Grantor or taking reasonable measures to remedy, abate or correct any violation by Grantor thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred.

B. Non-Waiver.

Enforcement of the terms of the Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Grantee Disclaimer of Liability.

By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with, and including but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by Grantee or anyone acting under the direction of the Grantee.

D. Acts beyond the Grantor's Control.

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Premises resulting from such causes.

IV. Access:

This Conservation Restriction does not grant the Grantee, the public, or any other person or entity any right to enter upon the Premises, except as follows:

Grantor hereby grants to the Grantee, including Grantee's employees and duly authorized agents and representatives including but not limited to all employees of NHESP and the Division, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance herewith, of enforcing this Conservation Restriction. The Grantor also grants to the Grantee, after sixty (60) days notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation thereof, including but not limited to the right to have a survey of boundary lines conducted at the Grantee's expense. This Conservation Restriction in no way limits, amends or alters the legal authority of NHESP/Division to access the property of the Grantor, its successors and assigns.

V. Extinguishment:

A. If circumstances arise in the future such as to render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph B below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

B. Proceeds.

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted property at that time. Such proportionate value of the Grantee's property right shall remain constant.

C. Grantor/Grantee Cooperation Regarding Public Action.

Whenever all or any part of the Premises or any interest therein is taken by a public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds and the remaining proceeds shall be distributed between the Grantor and the Grantee in shares equal to such proportionate value. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes herein.

VI. Assignability:

A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments.

The Grantee is authorized to record or file any notices of instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor on behalf of themselves and their successors and assigns appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantor and their successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit.

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee except in the following instances from time to time:

As a condition of any assignment, the Grantee requires that the purpose of this Conservation Restriction to be carried out; and the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the General Laws as an eligible donee to receive this Conservation Restriction directly; and assignment will comply with the provisions required by Article 97 of the Amendments to the State Constitution, if applicable; and Grantor and Grantee shall consult and coordinate regarding the selection of any assignee.

VII. Subsequent Transfers:

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including a leasehold interest, and to notify the Grantee within twenty (20) days of such transfer. Failure to do so shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after its ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation to this

Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owners and may be held responsible for any continuing violations.

VIII. Estoppel Certificates:

Upon request by the Grantor, the Grantee shall within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. Effective Date:

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it and it has been recorded, or if registered land, it has been registered.

X. Non-Merger:

The parties intend that the terms and provisions of this Conservation Restriction shall be valid in perpetuity to the extent feasible under existing and future law. If Grantor conveys the underlying fee to any person other than the Grantee, no merger of this Conservation Restriction and the fee would occur. However, if Grantor wishes to convey the fee to Grantee, and Grantee wishes to acquire such fee, Grantor and Grantee hereby agree that such transfer may occur only via a consensual eminent domain taking in which this Conservation Restriction merges into the fee so long as Grantee takes such fee explicitly subject to the terms of the Permit with the order of consensual taking containing the following provision: "The premises consensually taken herein are taken expressly subject to the terms and provisions of the Massachusetts Endangered Species Act (G.L. c.131A) Conservation and Management Permit Number XXX-XXX.DFW dated DATE, and recorded in the Plymouth Registry of Deeds in Book XXX at Page XX. The Commonwealth expressly agrees to carry out and implement in perpetuity the rare species and habitat protection purposes and goals of such Permit, including the Purposes and prohibited Acts and Uses set forth in the Conservation Restriction attached as Attachment X to such Permit."

XI. Amendment:

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable bylaws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the Massachusetts General Laws, and any amendments shall be consistent with the purposes of this Conservation Restriction, and shall not affect its perpetual duration. Any such amendment shall be approved by the parties herein, and by the Secretary of Energy and Environmental Affairs, if applicable, and shall be recorded in the Plymouth County Registry of Deeds.

XII. Notices:

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:	A.D. Makepeace Company 158 Tihonet Road Wareham, MA 02571
To Grantee:	Massachusetts Department of Fish & Game 251 Causeway Street Suite 400 Boston, MA 02114
To NHESP:	Natural Heritage & Endangered Species Program MA Division of Fisheries and Wildlife 1 Rabbit Hill Road Westborough, MA 01581

or to such other address either of the parties shall designate from time to time by written notice to the other.

XIII. General Provisions:

A. Controlling Law.

This Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction.

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally constructed in favor of the Grantee to effect the purpose of this Conservation Restriction and the policy purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision of this Conservation Restriction is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability.

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement.

This Conservation Restriction sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior negotiations, discussion, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. Miscellaneous:

A. Pre-existing Public Rights.

Approval of this Conservation Restriction pursuant to Chapter 184, Section 32 of the Massachusetts General Laws by any municipal officials and by the Secretary of the Executive Office of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the grant of this Conservation Restriction.

B. Subordination of Mortgage.

The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, financing statement or any other agreement which gives rise to a surety affecting the Property.

Executed under seal this _____ day of _____, 20__.

A.D. MAKEPEACE COMPANY

By: _____
Michael P. Hogan, President

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 20__

Then personally appeared before me the above-named Michael P. Hogan and proved to me through satisfactory evidence of identification, which was *(personal knowledge of identity) (a current driver's license) (a current US passport)*, to be the person whose name is signed on the document and acknowledged to me that he/she signed it, as President of A.D. Makepeace Company, voluntarily for its stated purpose.

Notary Public
My commission expires:

ACCEPTANCE OF GRANT

This Conservation Restriction is accepted this _____ day of _____, 20__.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF FISH AND GAME

By: _____
George Peterson, Jr., Commissioner

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 20__

Then personally appeared before me the above-named George Peterson, Jr. proved to me through satisfactory evidence of identification, which was *(personal knowledge of identity) (a current driver's license) (a current US passport)*, to be the person whose name is signed on the document and acknowledged to me that he/she signed it, as _____ of the _____, voluntarily for its stated purpose.

Notary Public
My commission expires:

ACCEPTANCE AND ENFORCEABILITY OF OBLIGATIONS

The Natural Heritage and Endangered Species Program [NHESP] recognizes that certain obligations and responsibilities are vested in NHESP as set forth in Section II.C of this Conservation Restriction. NHESP accepts these obligations and responsibilities and agrees that these provisions are enforceable against NHESP. Dated this _____ day of _____, 20__.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF FISH AND GAME
NATURAL HERITAGE AND ENDANGERED
SPECIES PROGRAM

By: _____
Title: _____

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 20__

Then personally appeared before me the above-named _____ proved to me through satisfactory evidence of identification, which was (*personal knowledge of identity*) (*a current driver's license*) (*a current US passport*), to be the person whose name is signed on the document and acknowledged to me that he/she signed it, as _____ of the _____, voluntarily for its stated purpose.

Notary Public
My commission expires:

EXHIBIT A

Parcels CR-MX are shown on a Plan entitled "Conservation Restriction Plan of Land in Plymouth, Massachusetts (Plymouth County)", Scale 1" = 300', dated DATE, prepared by Beals and Thomas, Inc., Plymouth Massachusetts, recorded in the Plymouth County Registry of Deeds as Plan No. XXX of 2015 in Plan Book XX at Page XXX, and containing in total XXX acres, more or less, as shown on said Plan.

FOR TITLE, see deed 1) deed from Tremont Nail Company to A.D. Makepeace Company, dated March 1, 1922 and recorded in said Registry in Book 1408 at Page 69; 2) deed from Commonwealth of Massachusetts Department of Environmental Management to A.D. Makepeace Company, dated August 11, 1982 and recorded in said Registry in Book 5189 at Page 245; and 3) deed from the First National Bank of Boston and John Hall Jones, trustees, to A.D. Makepeace Company, dated August 31, 1937 and recorded in said Registry in Book 1733 at Page 261.

Subject to all rights and encumbrances of record.

Attachment 3

Draft License Agreement

LICENSE AGREEMENT

This License Agreement (this "Agreement") is made as of the ____ day of _____, 20 ____, by and between ADM Development Services LLC, a Massachusetts limited liability company with an address of 158 Tihonet Road, Wareham, Massachusetts 02571 ("ADM") [and current property owner, if not ADM], their successors and assigns ("Licensor") and Massachusetts Division of Fisheries & Wildlife, its successors and assigns ("Licensee") with reference to the following:

RECITALS

WHEREAS, Licensor is the owner of certain land situated along _____ in [Town], Plymouth County, Massachusetts, (the "Licensor's Property");

WHEREAS, pursuant to a Conservation and Management Permit issued between Licensor and Licensee, dated _____, 20__ (the "Permit"), Licensee may conduct certain habitat management and/or maintenance work on the Licensor's Property, as set forth therein;

WHEREAS, Licensee has requested that Licensor grant access to the Licensor's Property to allow Licensee to undertake such work and, and Licensor is willing to permit such access on the terms and conditions set forth herein;

NOW, THEREFORE, with the intent to be legally bound and for consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of License.

(A) Licensor hereby grants to Licensee and Licensee's contractors, engineers, consultants and other employees, agents and independent contractors (collectively, "Licensee's Team") a license (the "License") for access on, to, in and over the Licensor's Property, in locations shown on the attached plan, for the purpose of conducting the following work, (the "Work"), which shall include all ingress and egress from the Work area(s):

- 1.
- 2.
- 3.

(B) The License granted hereunder for the Work shall commence as of _____, 20__ and shall terminate on _____, 20__ (the "License Term"). The License Term may be extended by mutual agreement of the parties with provision by the Licensee of a description of the additional work to be undertaken.

2. Expenses and Conformance with Law. Licensee agrees that all activities

undertaken by Licensee pursuant to the License shall be performed at Licensee's sole cost and expense and in conformance with all applicable law. Licensee shall be solely responsible for obtaining at its own expense all necessary governmental permits and approvals in connection therewith. Licensor agrees to cooperate with and assist Licensee, as Licensee may reasonably request, in obtaining any such permits and approvals.

3. Insurance. Licensee agrees that Licensee and any of Licensee's Team exercising rights under the License shall be covered by comprehensive general liability insurance (including property damage and bodily injury) issued by an insurance company reasonably acceptable to Licensor, naming Licensor (and ADM in the event that ADM is not the Licensor) as additional insured written on a claims made basis with a combined single unit of not less than \$1,000,000.00. Licensor acknowledges that the Commonwealth of Massachusetts is self-insured. Consequently, none of the above insurance requirements apply to an employee of the Division of Fisheries and Wildlife supervising or conducting activities authorized under this License Agreement.

4. Prior Notice and Copies of Reports. Licensee shall give Licensor not less than five (5) business days prior written notice of its intent to exercise the License to conduct the Work, along with a list of contractors that will be entering the Licensor's Property. Licensor shall have the right to postpone the Work if it is reasonably anticipated to materially interfere with Licensor's ongoing agricultural operations on the Property. All Work at the Licensor's Property shall be conducted during business hours, as allowed by the Town of Plymouth, unless otherwise agreed in writing by Licensor. Licensor shall have the right to have a representative present during any Work. Licensee agrees to cooperate with any reasonable request by Licensor in connection with the timing of any such Work. Each contractor shall furnish Licensor with a certificate of insurance prior to entering the Licensor's Property.

5. Quiet Enjoyment. Licensee agrees that, in the exercise of its rights under the License, it will not unreasonably interfere with or permit unreasonable interference with the quiet enjoyment of all or any portion of the Licensor's Property, or otherwise unreasonably interfere with or permit the unreasonable interference with any person occupying or providing service at the Licensor's Property.

6. Liability; Successors and Assigns. No member, manager, officer, employee, agent or other individual affiliated with Licensor shall be personally liable under the terms of this Agreement.

IN WITNESS WHEREOF, the parties executed this agreement as of the date first above written.

LICENSOR/ CURRENT PROPERTY OWNER

By: _____
[name] , [title]
Hereunto duly authorized

ADM DEVELOPMENT SERVICES LLC
[If not current property owner]
By ADM Management Corporation, its Manager

By: _____
[name] , [title]
Hereunto duly authorized

LICENSEE.

By: _____
[name] , [title]
Hereunto duly authorized

Attachment 4

Draft Escrow Agreement

PINE BARRENS CONSERVATION ESCROW AGREEMENT

This PINE BARRENS CONSERVATION ESCROW AGREEMENT (this “Agreement”) is entered into as of this ____ day of _____, 2015 by and between the Massachusetts Division of Fisheries and Wildlife, by and through the Natural Heritage and Endangered Species Program, having a principal place of business at 1 Rabbit Hill Road, Westborough, MA, 01581 (“NHESP”); ADM Development Services, LLC, a Delaware limited liability company having an address at 158 Tihonet Road, Wareham, Massachusetts 02571 (“ADM”) and Rubin and Rudman LLP, having an address at 50 Rowes Wharf, Boston, Massachusetts 02110 (“Escrow Agent”). NHESP, ADM and Escrow Agent are referred to herein collectively as the “Parties.”

1. Recitals

a. The Conservation and Management Permit No. 015-____.DFW (“Permit”) issued by NHESP to ADM requires in paragraph 16 of the Special Conditions section that ADM ensure that funds are available in the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) (the “Funds”) for vegetation management, monitoring and research funding for rare pine barrens species research, habitat management and restoration in Southeastern Massachusetts.

b. The Parties agree the Funds shall be paid by ADM to the Escrow Agent and held in an interest bearing escrow account (“Escrow Account”) (further defined in 2 below) and expended pursuant to the terms and conditions described below to mitigate for the use of pine barrens habitat in connection with the development of the Tihonet East Solar project (the “Project”), located in Wareham, Massachusetts (the “Site”).

The Parties enter into this Agreement for the purpose of defining the terms and conditions under which the Funds shall be held and disbursed.

NOW THEREFORE, after consideration of the above recitals, ADM, NHESP and the Escrow Agent hereby covenant and agree as follows:

2. Escrow Account

a. ADM shall deliver the Funds to the Escrow Agent in the manner described below:

- (i) \$45,000 Phase 1 Escrow: Within ten (10) days after the commencement of “work” on Phase 1 (“Phase 1 Escrow Date”), ADM shall deliver to Escrow Agent the amount of Eleven Thousand Two Hundred Fifty (\$11,250.00) dollars (“Phase I Escrow Installment”). Thereafter, ADM shall deliver to Escrow Agent: a second Phase 1 Escrow Installment no later than 1 year after the Phase 1 Escrow Date; a third Phase 1 Escrow Installment no later than 2

years after the Phase 1 Escrow Date; and a fourth and final Phase 1 Escrow Installment no later than 3 years after the Phase 1 Escrow Date.

- (ii) \$55,000 Phase 2 Escrow: Within ten (10) days after the commencement of work on Phase 2 (“Phase 2 Escrow Date”), ADM shall deliver to Escrow Agent the amount of Thirteen Thousand Seven Hundred Fifty (\$13,750.00) dollars (“Phase 2 Escrow Installment”). Thereafter, ADM shall deliver to Escrow Agent: a second Phase 2 Escrow Installment no later than 1 year after the Phase 2 Escrow Date; a third Phase 2 Escrow Installment no later than 2 years after the Phase 2 Escrow Date; and a fourth Phase 2 Escrow Installment no later than 3 years after the Phase 2 Escrow Date.

b. All funds delivered by ADM to the Escrow Agent shall be deposited by the Escrow Agent in an interest bearing account or held in obligations by the U.S. Government at one or more banks (“Depository Bank”), said accounts to be at all times insured by the Federal Deposit Insurance Corporation and which shall pay interest on the Funds at a reasonable rate. The Depository Bank shall be entitled to charge the Escrow Account for services related to maintenance of the Escrow Account at a rate not exceeding the Bank’s standard charges to other customers for similar services.

c. The Escrow Account shall be opened by the Escrow Agent and funds may be withdrawn only by the Escrow Agent and no other person. Disbursements shall be made from the Escrow Account only in accordance with the terms of this Agreement.

d. The Escrow Agent shall maintain a record of all deposits, income, disbursements, and other transactions of the Escrow Account. Upon request, the Escrow Agent shall provide to any of the Parties a written accounting of all transactions. The Parties shall have the right to inspect all books and records of the Escrow Agent relating to the Escrow Account at reasonable times upon request. Escrow Agent’s computation of the Funds is correct in the absence of manifest error.

e. The Escrow Agent shall keep possession of the book(s) and bank statements of the Escrow Account until such time as it is terminated in accordance with the terms of this Agreement, or until a successor Escrow Agent is appointed as provided herein.

3. Disbursements

From time to time, NHESP may, on or before the date which is twenty (20) years from the date of this Agreement, request in writing the Escrow Agent to deliver all or portions of the Funds, plus any interest thereon, for vegetation management, monitoring and research funding for the benefit of rare pine barrens species in Southeastern Massachusetts, to provide a net-benefit to said rare pine barrens species in Southeastern Massachusetts. Upon receipt of such written request, the Escrow Agent shall deliver the requested portion of the Funds to NHESP or any party designated in writing by NHESP. Delivery of the Funds in accordance with the terms of this Agreement shall be made by cashier’s check, or by federal funds wire transfer, at the option of the payee.

a. The Escrow Agent may make disbursements to the Depository Bank for services rendered in maintaining said account.

b. If, at the end of twenty (20) years from the date of this Agreement, any portion of the Funds is still held in escrow under this Agreement, then NHESP shall, within six (6) months after such twenty (20) year date, develop a plan for the use of any remaining Funds by NHESP or any party designated in writing by NHESP for the further vegetation management, monitoring or research for the benefit of said rare pine barrens species.

c. The Escrow Agent shall release any remaining Funds to NHESP or any party designated in writing by NHESP in accordance with such plan.

4. Termination of Agreement

This Escrow Agreement shall terminate, and the Escrow Agent shall be relieved of all liability, after all funds in the Escrow Account have been properly disbursed in accordance with the terms and conditions of this Agreement. When the Escrow Account is terminated, the Escrow Agent shall provide a final accounting of all transactions hereunder to the Parties.

5. Duties and Liabilities of Escrow Agent

a. The sole duty of the Escrow Agent under this Agreement is to receive funds from ADM and to hold the funds for disbursement according to Section 3 above. The Escrow Agent shall be under no duty to pass upon the adequacy of any documents, to determine whether any of the Parties are complying with the terms and provisions of this Escrow Agreement, or to determine the identity or authority of any person purporting to be a signatory authorized by ADM or NHESP.

b. The Escrow Agent may conclusively rely upon, and shall be protected in acting on, a statement, certificate, notice, requisition, order, approval, or other document believed by the Escrow Agent to be genuine and to have been given, signed and presented by a duly authorized agent of ADM or NHESP. The Escrow Agent shall have no duty or liability to verify any statement, certificate, notice, request, requisition, consent, order, approval or other document, and its sole responsibility shall be to act only as expressly set forth in this Agreement. The Escrow Agent shall not incur liability for following the instructions contemplated by this Agreement or expressly provided for in this Agreement or other written instructions given to the Escrow Agent by the Parties. The Escrow Agent shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Escrow Agreement, unless first indemnified to its satisfaction. The Escrow Agent may consult with counsel of its choice including shareholders, directors, and employees of the Escrow Agent, with respect to any question arising under or in connection with this Agreement, and shall not be liable for any action taken, suffered or omitted in good faith. The Escrow Agent shall be liable solely for its own willful misconduct.

c. The Escrow Agent may refrain from taking any action, other than keeping all property held by it in escrow, if the Escrow Agent: (1) is uncertain about its duties or rights under this Escrow Agreement; (ii) receives instructions that in its opinion are in conflict with any of the terms and provisions of this Agreement until it has resolved the conflict to its satisfaction, received a final judgment by a court of competent jurisdiction (if it deems such action necessary or advisable), or it has received instructions executed by both ADM and NHESP.

d. Escrow Agent is acting and may continue to act, as counsel to ADM in connection with the subject transaction, whether or not the Funds are being held by Escrow Agent or have been delivered to a substitute impartial party or a court of competent jurisdiction. Escrow Agent is not acting as counsel to ADM in Escrow Agent's capacity as escrow agent.

e. Each of the Parties admits, acknowledges and represents to each of the other Parties that it has had the opportunity to consult with and be represented by independent counsel of such party's choice in connection with the negotiation and execution of this Agreement. Each of the Parties further admits, acknowledges and represents to the other Parties that it has not relied on any representation or statement made by the other Parties or by any of their attorneys or representatives with regard to the subject matter basis or effect of this Agreement.

6. Escrow Agent's Fee

a. The Escrow Agent is not receiving a fee for its services hereunder, but may charge the Escrow Account for any and all costs, claims, damages, or expenses (including without limitation reasonable attorneys' fees and disbursements, whether paid to retained attorneys or representing the fair value of legal services rendered to itself) howsoever occasioned that may be incurred by Escrow Agent acting under this Agreement or to which Escrow Agent may be put in connection with Escrow Agent acting under this Agreement, except for costs, claims, damages or expenses arising out of Escrow Agent's willful misconduct. Escrow Agent may charge against the Funds any amounts owed it under the foregoing provision or may withhold payment of the Funds as security for any unliquidated claim, or both.

7. Investment Risk

a. In no event shall the Escrow Agent have any liability as a result of any loss occasioned by the financial difficulty or failure of any institution, including Depository Bank, or for failure of any banking institution, including Depository Bank, to follow the instructions of the Escrow Agent. Without limiting the generality of the foregoing, in no event shall the Escrow Agent incur any liability as the result of any claim or allegation that the Escrow Agent should have invested the escrow funds in United States Treasury Bills rather than hold same on deposit at the Depository Bank, or vice versa.

8. Notices

a. All notices permitted or required by this Agreement shall be in writing and shall be deemed duly provided when deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, to the other Parties at the addresses set forth in the first paragraph of this Agreement. The Party providing notice may choose alternate methods, including hand delivery, Federal Express or other recognized overnight courier. Notices provided by hand delivery, Federal Express or other recognized overnight courier shall be deemed duly provided when received at the addresses set forth in the first paragraph of this Agreement.

b. All notices, certification, authorizations, requests or other communications required, or permitted to be made under this Escrow Agreement shall be delivered as follows:

To the NHESP:

Director
Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581
Fax No: 508.389.7890

To ADM:

ADM Development Services LLC
158 Tihonet Road
Wareham, MA 02571
Fax No. 508.291.4322

To the Escrow Agent:

Michael K. Crossen, Esq.
Rubin and Rudman LLP
50 Rowes Wharf
Boston, MA 02110
Fax No: 617.330.7550

or to such other place or to the attention of such ether individual as a Party from time to time may designate by written notice to all ether Parties.

9. Resignation, Removal or Successor Escrow Agent

a. If, for any reason, the Escrow Agent is unable or unwilling to continue to act as Escrow Agent, he/she shall give written notice to the other Parties of his/her inability or unwillingness to continue as Escrow Agent. The parties shall agree upon a successor agent, formally appoint the successor agent, and provide written notification to the Escrow Agent of the subsequent appointment within ten (10) business days. The Escrow Agent shall then, within three (3) business days after receiving notice of subsequent appointment, deliver to the successor escrow agent all cash and other property held by the Escrow Agent under this Escrow

Agreement. Upon such delivery, all obligations of the Escrow Agent under this Escrow Agreement shall automatically cease and terminate. If no successor escrow agent is designated within the prescribed ten (10) day period, or if notice of subsequent appointment is not received within such period, then the Escrow Agent may, at its option at any time thereafter, deposit the funds and any documents then being held by it in escrow into any court having appropriate jurisdiction, and upon making such deposit, shall thereupon be relieved of and discharged and released from any and all liability hereunder, including without limitation any liability arising from the Funds, or any portion thereof so deposited.

b. The Escrow Agent may be removed at any time by a written instrument or concurrent instruments signed by the NHESP and ADM and delivered to the Escrow Agent.

If at any time hereafter, the Escrow Agent shall resign, be removed, be dissolved, or otherwise become incapable of acting, or the position of the Escrow Agent shall become vacant for any of the foregoing reasons or for any other reason, the Parties hereto shall promptly appoint a successor Escrow Agent. Upon appointment, such successor Escrow Agent shall execute and deliver to his/her predecessor and to the Parties hereto an instrument in writing accepting such appointment hereunder. Thereupon, without further act, such successor Escrow Agent shall be fully vested with all the rights, immunities, and powers, and shall be subject to all the duties and obligations of his/her predecessor, and the predecessor Escrow Agent shall promptly deliver all books, records, and other property and monies held by him/her hereunder to such successor Escrow Agent.

10. Interest

All interest income accrued on funds in the Escrow Account shall become part of the Escrow Account and shall remain in the Escrow Account. The Escrow Agent may disburse funds to pay federal and state taxes on accrued interest.

11. Miscellaneous

a. This Escrow Agreement shall be binding upon, and shall inure to the benefit of the respective Parties hereto and their successors and assigns.

b. This Agreement shall be governed by and be construed in accordance with the laws of the Commonwealth of Massachusetts.

c. This Agreement shall be interpreted as an instrument under seal.

d. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all counterparts shall constitute one Agreement.

e. This Escrow Agreement may not be amended, altered, or modified except by written instrument duly executed by all of the Parties hereto.

IN WITNESS WHEREOF, the parties have caused this Escrow Agreement to be duly executed as, of day and year first written above.

FOR THE MASSACHUSETTS DIVISION
OF FISHERIES AND WILDLIFE:

Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2015

On this ____ day of _____, 2015, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My commission expires:

FOR ADM DEVELOPMENT SERVICES LLC:

ADM DEVELOPMENT SERVICES LLC,
a Delaware limited liability company

By: ADM Management Corporation,
Its Manager

By: _____
Name: Michael P. Hogan
Its: President

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2015

On this ____ day of _____, 2015, before me, the undersigned notary public; personally appeared _____ and proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My commission expires:

FOR THE ESCROW AGENT:

Rubin and Rudman LLP

By: _____

Name:

Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2015

On this _____ day of _____, 2015, before Me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public

My commission expires: