



MassWildlife

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

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

DATE	September 16, 2013
CONSERVATION PERMIT NO.:	013-224.DFW
NHESP FILE NO.	05-17135
PERMIT HOLDER	ADM Development Services LLC 158 Tihonet Road Wareham, MA 02571
PROJECT	Phase C2 Proposed Cranberry Bogs/Infrastructure

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 ("Permit" or "Conservation and Management Permit") to ADM Development Services LLC ("ADM" or the "Permit Holder"). This permit authorizes the "taking" of various pine barrens species that are listed as "Special Concern", "Threatened, and "Endangered" pursuant to MESA, for the phased construction of new-style/upland (non-flow through) cranberry bogs, ("Phase C2 Proposed Cranberry Bogs/Infrastructure" or the "Proposed Project") on ± 217 acres (the "Phase C2 Cranberry Bog Project Site" or the "Property") in Plymouth, MA (Attachment A). Also proposed as part of the overall Phase C2 Proposed Cranberry Bogs/Infrastructure project are a soil blending facility in Carver, which is not located within state-listed species habitat, as well as a 4,900 linear foot bypass canal which will impact ± 11 acres but will not result in a "take" of a state-listed species due to its location proximate to an existing bog complex.

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:

www.mass.gov/nhesp

Division of Fisheries and Wildlife

Field Headquarters, One Rabbit Hill Road, Westborough, MA 01581 (508) 389-6300 Fax (508) 389-7890

An Agency of the Department of Fish and Game

- (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 Proposed Project will result in a "take" of six State-listed Pine Barrens Species. The Director has also 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 impacted by the Proposed Project.

Pursuant to this Conservation and Management Permit the Permit Holder proposes to alter ± 148 acres of mapped habitat and an additional ± 69 acres of unmapped habitat. This Proposed Project is part of the larger ADM Tihonet Mixed Use Development (TMUD) within a $\pm 6,107$ acre Parcel, prior phases of which 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

In total, these previously permitted projects impacted ± 112 acres of mapped or identified potential Eastern Box Turtle or pine barrens habitats. The previously permitted projects required 184 acres of conservation restrictions to be established as mitigation for the associated impacts.

Therefore, the following mitigation measures will be implemented for the Proposed Project: (a) permanent protection of ± 276 acres of high quality habitat through grants of Conservation Restrictions (this is in addition to the previously committed ± 184 acres of mitigation in association with prior ADM TMUD projects); (b) in order to support the long-term monitoring/management of this habitat, Permit Holder will provide permanent protection of an additional ± 75 acres of high quality habitat through grants of Conservation Restrictions (in addition to those identified in (a) above); and (c) establishment of a \$200,000.00 fund over a period of five years for pine barrens research and habitat management and restoration implementation in southeastern Massachusetts.

Therefore, the Proposed Project can be permitted under MESA. This Conservation and Management Permit is issued to impose the conditions set forth below and provide long-term net benefit mitigation to compensate for those portions of the local state-listed species populations impacted by the Proposed Project.

In accordance with the documents submitted to the Division entitled:

- Project Site Plan: "Context Map" (Attachment A)
- Limit of Work Plan: "Phase C2 Site Plan", dated 8/21/13 (Attachment B)
- Construction Phasing: "Phase C2 Bog Construction Phasing", dated 8/13 (Attachment C)

- Proposed Conservation Restriction Parcels: “Exhibit Map, Mitigation: Development to Date with Associated Mitigation” (Attachment D)
- Draft Conservation Restriction, dated September 4, 2013 (Attachment E)
- Conservation Restriction Plan of Land (Attachment F)
- License Agreement (Attachment G)
- Escrow Agreement, dated 9/4/13 (Attachment H)

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 twenty-two (22) 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 phased construction of new-style/upland cranberry bogs on ±217 acres and the construction of an approximately 4,900 linear foot bypass canal on ±11 acres around the existing Frogfoot bogs (the “Work”). The work shall only occur within the limit of work shown on <u>Attachment B</u> . The work also includes any other on-site activity required by the Division as a condition of this Permit. Additional work will occur within the soil blending facility; however, this area does not contain state-listed species habitat.
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 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 affected State-listed Species. The Division retains the right to require the submittal of additional, reasonable information to evaluate the plan change.
6.	This Conservation and Management 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 Conservation and Management Permit should 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 Conservation and Management Permit. Within five 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 Conservation and Management 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 Conservation and Management 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 such Work has commenced. Within three (3) business days of the start of such Work, the Permit Holder shall send a letter to the Division stating the date upon which such Work commenced. Within two weeks of receipt of said letter, the Division shall provide the Permit Holder's representative with the contact information for the appropriate Division staff representative with whom the Permit Holder should coordinate.
8.	<u>Prior to the start of Work on the Property</u> , the text of this Conservation and Management 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 Conservation and Management 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 Conservation and Management 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.	<u>At the completion of Work on the Property</u> , or the completion of any individual Phase of Work as generally set forth on Attachment C (subject to change with notification to the Division), the Permit Holder shall submit a written request for a Certificate of Permit Compliance or may submit a written request for Partial Certificate of Compliance, as applicable, to the Division including as-built plans and other supporting materials demonstrating the completion of the Work or Phase required by this Permit 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 Conservation and Management 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.	<u>Authorized Construction and Uses:</u> This Conservation and Management 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 <u>Attachment B</u> , with the exception of habitat
-----	---

restoration and management, and other activities specifically authorized to take place within the habitat protection areas 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. Construction Phasing: All construction and mitigation shall be carried out in accordance with the Construction Phasing Plan (Attachment C) and “Exhibit Map, Mitigation: Development to Date with Associated Mitigation” (Attachment D), unless otherwise authorized in writing in advance by the Division. Also refer to the table in Special Condition 15 below.

15. Habitat Protection Areas, Management and Restoration: The Permit Holder, in order to provide a long-term benefit for the conservation of the state-listed species noted herein, has chosen to permanently protect ±276 acres of habitat through the recording of Conservation Restrictions as detailed in the following table (also see the Draft Conservation Restriction in Attachment E). 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 ±75 acres of habitat through the recording of Conservation Restrictions as detailed in the following table (also see the Draft Conservation Restriction in Attachment E).

Phase of Work	Acreage of Impact	Conservation Restriction Parcel	Base Mitigation Acreage	Additional Mitigation Acreage	Total Mitigation Acreage
Phase A1 Tihonet Technology Park; Tihonet Technology Park Expansion; Phase A3 Bog; Phase B Charlotte Furnace Solar; Phase C1 Wankinco Bog	112	CR-1	24	NA	24
		CR-2	63	NA	63
		CR-3	47	NA	47
		CR-4	16	NA	16
		CR-5	34	NA	34
1	12.73	M1 (+ 1 acre from CR-5)	16.2	4.4	20.6
2	23.24	M2	29.5	8.0	37.5
3	22.73	M3	28.9	7.9	36.8
4	21.78	M4	27.7	7.5	35.2
5	21.71	M5	27.6	7.5	35.1
6	21.67	M6	27.6	7.5	35.1
7	21.71	M7	27.6	7.5	35.1
8	33.31	M8	42.4	11.5	53.9
9	16.67	M9	21.2	5.8	27.0
10	21.47	M10	27.3	7.4	34.7
TOTAL	329.02		460	75	535

Note: Conservation Restrictions 1 through 5 provide the 184 acres of mitigation for the ADM TMUD projects that have received prior Conservation and Management Permits (185 acres actually provided; 1 acre surplus applied to C2 mitigation as noted above).

Also refer to Attachment D.

Prior to the start of Work on a given Phase of the Project as shown in Attachment C, the Permit Holder shall execute and record one or more Conservation Restrictions associated with that Phase of Work as shown in the above table. Commencement of vegetation clearing, soil disturbance, and/or construction within the boundaries of a given Phase shown in Attachment C shall constitute the start

	<p>of Work for said Phase. 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 Restriction required under this Permit.</p> <p>Said Conservation Restrictions shall be in substantially the same form as <u>Attachment E</u>. Any changes to the text of the Conservation Restrictions must be approved in writing by the Division prior to recording. Said Conservation Restriction(s) 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.</p> <p>The Division may undertake, at reasonable times and upon reasonable notice to Permit Holder, habitat management and restoration activities on the Restriction 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 G.</p>
16.	<p><u>Division Review & Approval of Conservation Restriction Monumentation & Signage Plans:</u> The Proponent has prepared a monumentation plan of Conservation Restriction Parcels 1 through 5 and placed said monuments in the field (see <u>Attachment F</u>). Should additional reasonable signage or monumentation be required for said Conservation Restrictions, the Division will notify the Permit Holder within 30 business days of the issuance of this Permit.</p> <p>Prior to recording Conservation Restrictions M1 through M10, the Permit Holder shall prepare a signage and monumentation plan for the boundaries of pertinent open space parcels, and obtain written Division approval for said plan. Within 30 business days of recording, the Permit Holder shall provide the Division with a letter from a licensed surveyor certifying that said bounds and signs have been installed in accordance with said signage and monumentation plans. The Permit Holder shall maintain, repair, and replace said signage and bounds as necessary.</p>
17.	<p><u>Pine Barrens Research & Conservation Fund:</u> The Permit Holder will contribute \$200,000 over five years to fund pine barrens conservation research and habitat management and restoration implementation in southeastern Massachusetts in accordance with the procedures and timelines set forth in Attachment H.</p>
18.	<p><u>Amendment of Permit to Cover Other Portions of the Property:</u> Pending receipt of necessary approvals from the Secretary of Energy and the Environment, 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.</p>
19.	<p>Notwithstanding anything foregoing to the contrary, if future phases of work occur chronologically before the Phase C2 Proposed Cranberry Bogs/Infrastructure project is constructed, the Permit Holder will coordinate with the Division regarding apportioning required Conservation Restriction mitigation lands so that land is continually preserved in a westerly progression.</p>

20.	<p><u>Notice of Appeal Rights:</u> 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.</p> <p>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:</p>
	<p>Wayne MacCallum Director Division of Fisheries and Wildlife Field Headquarters One Rabbit Hill Road Westborough, MA 01581</p> <p>Any notice of claim for an adjudicatory hearing shall include the following information:</p> <ol style="list-style-type: none">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.

Wayne F. MacCallum

Wayne MacCallum, Director
Massachusetts Division of Fisheries & Wildlife

On this 16th day of September, 2013, before me, the undersigned notary public, personally appeared Wayne MacCallum, 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.

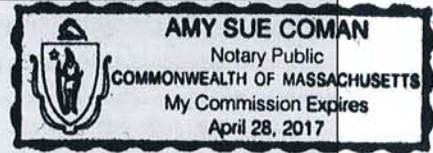
Amy Sue Coman

Amy Sue Coman, Notary Public
My Commission expires: April 28, 2017

Conservation Permit 013-224.DFW

Issued this 16 day of September, 2013

Work must be completed by: 16 September 2035



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 _____, 2013, 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

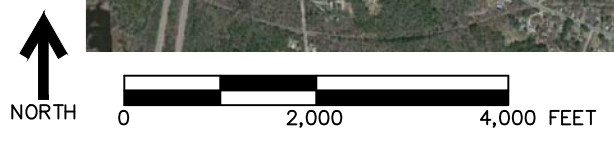
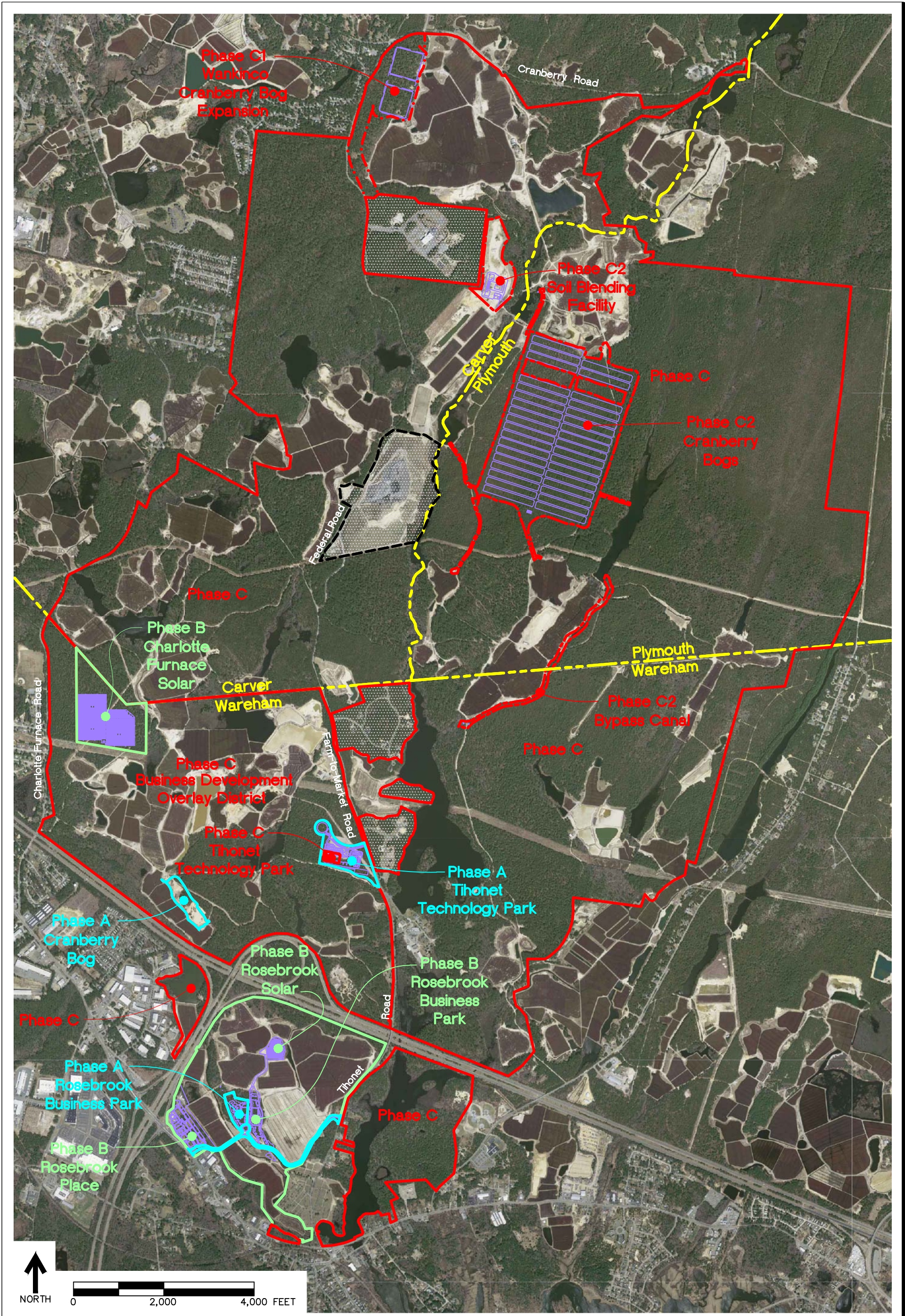
My commission expires: _____

Distribution List

Lauren Liss, Rubin & Rudman
Stacy Minihane, Beals & Thomas
Plymouth Board of Selectmen
Plymouth Conservation Commission
Plymouth Planning Board
DEP Southeast Regional Office, Wetlands Program
Deidre Buckley, MEPA

Attachment A

- Project Site Plan: "Context Map"
-



- Legend**
- Phase A Area
 - Phase B Area
 - Phase C Area
 - · - · Phase C1 Area
 - - - - Phase C2 Area
 - Outparcel owned by A.D. Makepeace Company
 - - - - Town Line

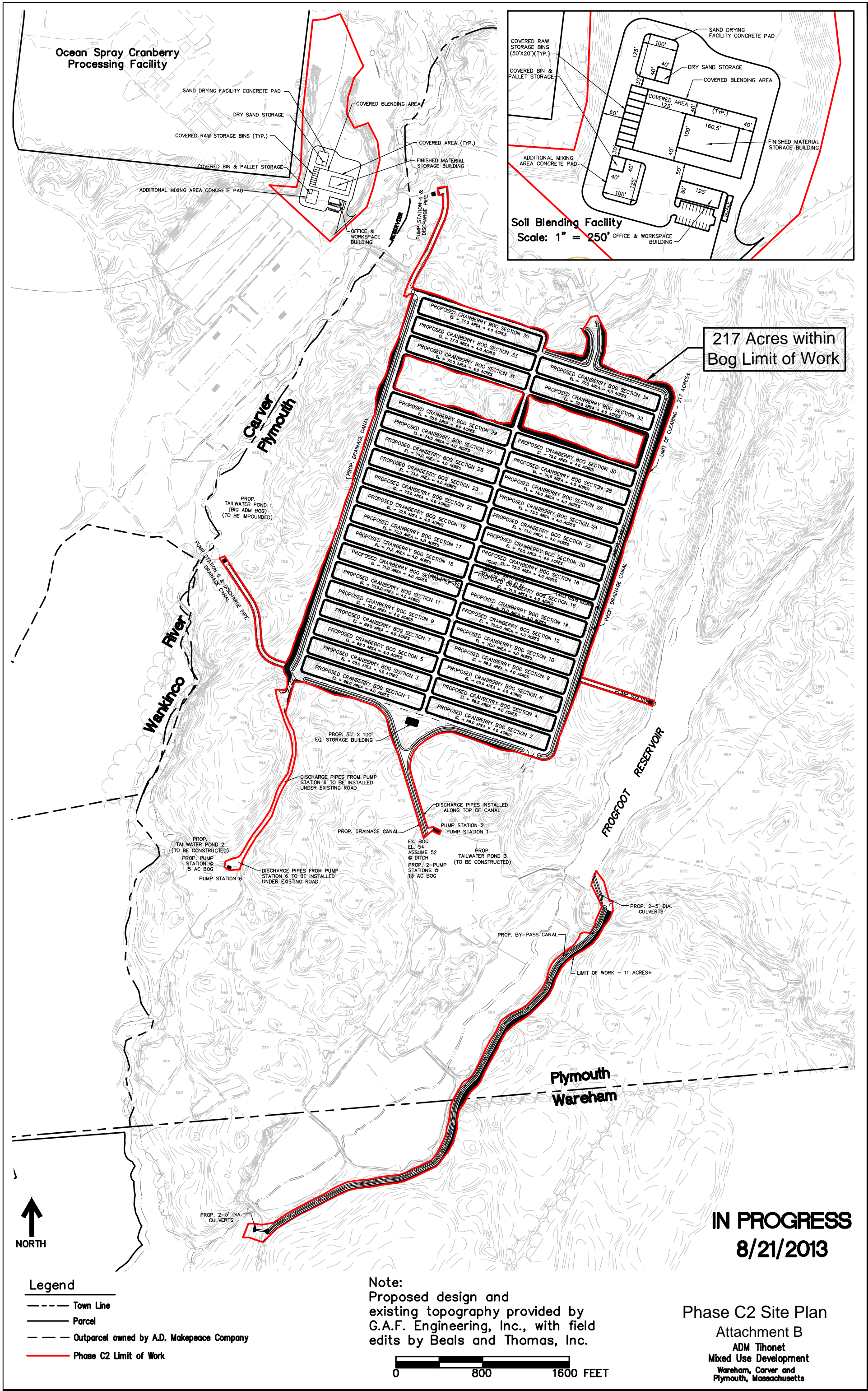
Context Map

Figure 2

ADM Tihonet
Mixed Use Development
Wareham, Carver and
Plymouth, Massachusetts

Attachment B

- Limit of Work Plan: “Phase C2 Site Plan”, dated 8/21/13



Ocean Spray Cranberry Processing Facility

Soil Blending Facility

217 Acres within Bog Limit of Work

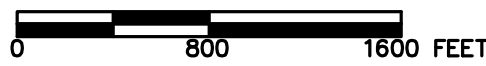
IN PROGRESS
8/21/2013

Legend

- Town Line
- Parcel
- - - - - Outparcel owned by A.D. Makepeace Company
- Phase C2 Limit of Work

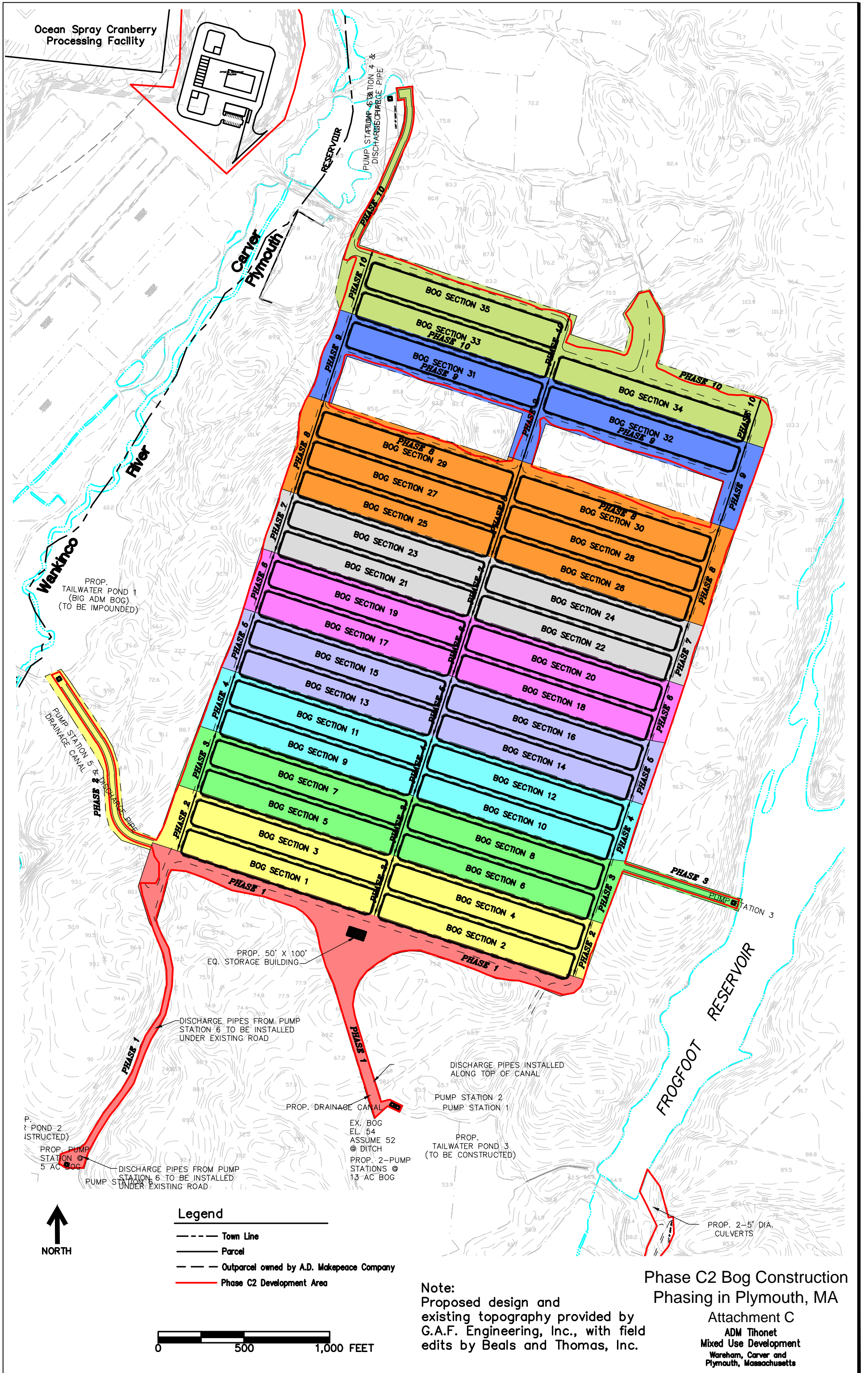
Note:
Proposed design and existing topography provided by G.A.F. Engineering, Inc., with field edits by Beals and Thomas, Inc.

Phase C2 Site Plan
Attachment B
ADM Tihonet
Mixed Use Development
Wareham, Carver and Plymouth, Massachusetts



Attachment C

- Construction Phasing: "Phase C2 Bog Construction Phasing", dated 8/13



Ocean Spray Cranberry Processing Facility

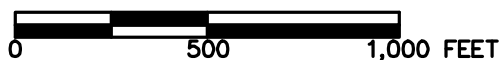
Carver Plymouth River

Warkhco River

Frogfoot Reservoir

Legend

- Town Line
- Parcel
- - - Outparcel owned by A.D. Makepeace Company
- Phase C2 Development Area



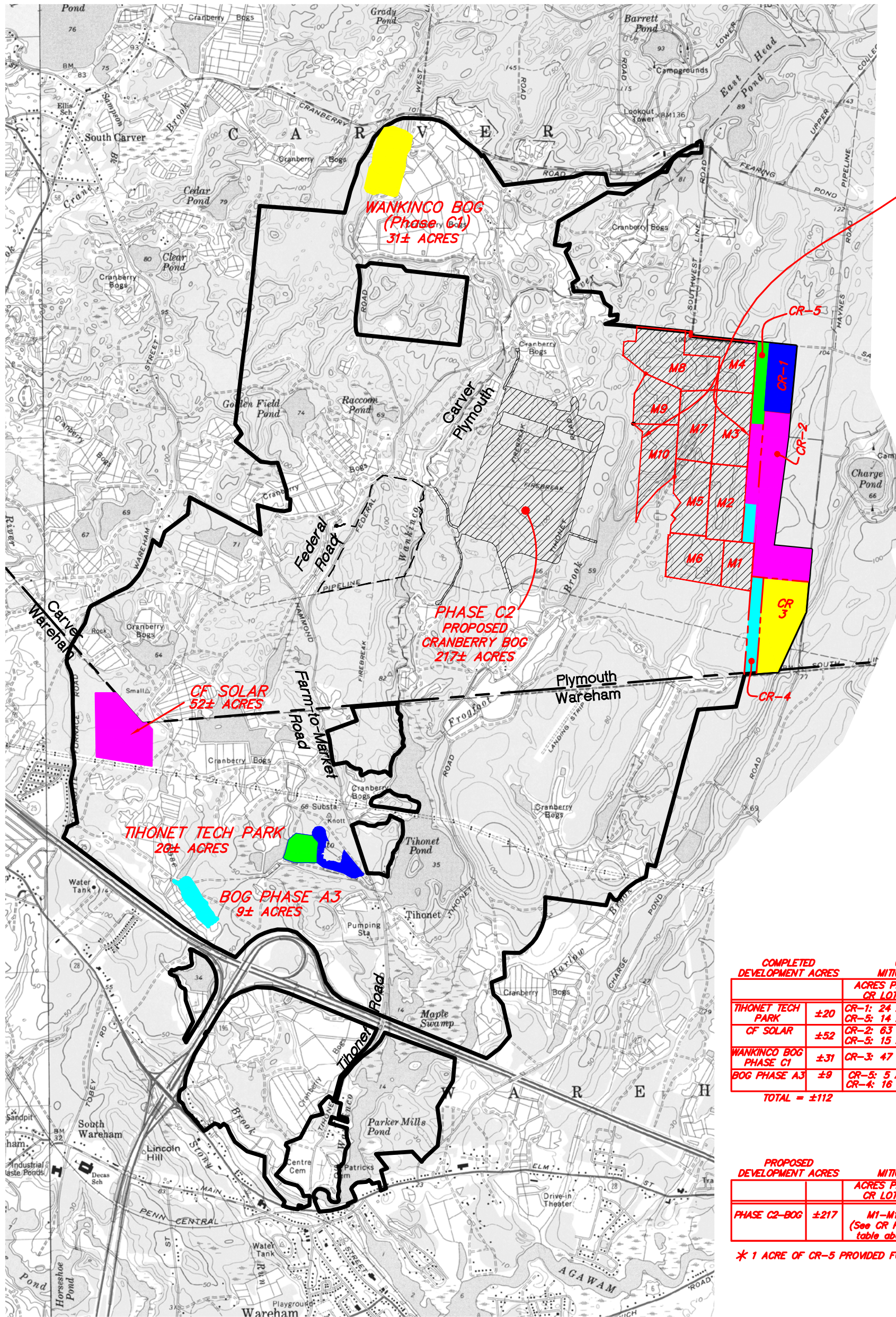
Note:
Proposed design and existing topography provided by G.A.F. Engineering, Inc., with field edits by Beals and Thomas, Inc.

Phase C2 Bog Construction Phasing in Plymouth, MA

Attachment C
ADM Tihonet
Mixed Use Development
Wareham, Carver and Plymouth, Massachusetts

Attachment D

- Proposed Conservation Restriction Parcels: “Exhibit Map, Mitigation: Development to Date with Associated Mitigation”



CONSERVATION RESTRICTION PARCELS

M1	19.6±AC.
M2	37.5±AC.
M3	36.8±AC.
M4	35.2±AC.
M5	35.1±AC.
M6	35.1±AC.
M7	35.1±AC.
M8	53.9±AC.
M9	27.0±AC.
M10	34.7±AC.

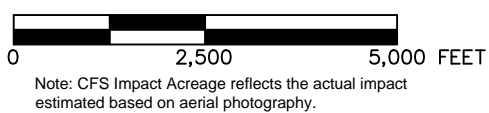
	COMPLETED DEVELOPMENT ACRES		COMMITTED MITIGATION ACRES	
	ACRES	ACRES PER CR LOT	ACRES	TOTAL CR ACRES
TIHONET TECH PARK	±20	CR-1: 24 ACRES CR-5: 14 ACRES	±38	
CF SOLAR	±52	CR-2: 63 ACRES CR-5: 15 ACRES	±78	
WANKINCO BOG PHASE C1	±31	CR-3: 47 ACRES	±47	
BOG PHASE A3	±9	CR-5: 5 ACRES CR-4: 16 ACRES	±21	
TOTAL	±112		±184	

	PROPOSED DEVELOPMENT ACRES		PROPOSED MITIGATION ACRES	
	ACRES	ACRES PER CR LOT	ACRES	TOTAL CR ACRES
PHASE C2-BOG	±217	M1-M10 (See CR Parcel table above)	±351 *	

* 1 ACRE OF CR-5 PROVIDED FOR PHASE C2 BOG

LEGEND

- Parcel
- Outparcel owned by A.D. Makepeace Company
- Town Line
- Conservation Restriction Parcel Boundary



Attachment D

EXHIBIT MAP

Development To Date
With Associated Mitigation
ADM Tihonet
Mixed Use Development
Wareham, Carver and
Plymouth, Massachusetts

Attachment E

- Draft Conservation Restriction, dated September 4, 2013

ATTACHMENT E
CONSERVATION RESTRICTION – ADM CR-1
TO
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF FISH AND GAME
September 4, 2013

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 (CR-1) on a parcel of land located in the Town of Plymouth, Massachusetts constituting 24 acres, and more particularly described in metes and bounds as **Exhibit A** and shown as CR-1 on a plan entitled “Conservation Restriction Plan of Land, last revised **XXXX**”, prepared by Beals and Thomas, Inc. attached hereto as Exhibit A-1 (the “Premises”). For Grantor’s title see Plymouth County Registry of Deeds Book 1408, Page 69.

This Conservation Restriction (CR-1) is required pursuant to a Conservation and Management Permit Number **XXXX** dated **XXXX** (the “Permit” a copy of which is attached hereto as **Exhibit B** 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).

(Reference mortgage to be subordinated)

I. Purposes:

This Conservation Restriction (CR-1) 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 (CR-1) 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 (CR-1) is granted pursuant to and in accordance with the requirements set forth in Conservation and Management Permit Number XXXX dated XXX issued by the Division acting through the NHESP and attached hereto as Exhibit B and incorporated herein by this reference (“Permit”).

These conservation values of the Premises and public benefits of this Conservation Restriction (CR-1) are described in more detail in the Baseline Documentation Report (Exhibit C) to be kept on file at the office of the Grantee and incorporated herein by this reference. Grantor and Grantee agree that this Baseline Documentation Report provides an accurate representation of the condition and the objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction (CR-1) as described herein.

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 (CR-1), be used towards building or development requirements on this or any other parcel, except that Transfer of Development Rights within the Conservation Restriction (CR-1) parcel that are created by the time of recording of this Conservation Restriction (CR-1) 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 (CR-1) 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 (CR-1).

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 (CR-1) interest:

1. Recreation Activities. Fishing, boating, hiking, horseback riding, cross country skiing, hunting 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, marketing, clearing, and maintaining of footpaths, subject to the prior written approval of the Division and Land Owner which approval shall not be unreasonably withheld. Specifically, The Holder of the Conservation Restriction (CR-1) shall coordinate with the Town of Plymouth and the Land Owner in order to lay out on the property, where mutually agreed upon, reasonable trail(s) 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 (CR-1); shall allow for the construction, maintenance, repair, marking and identifying with signs, and use of said trail(s) for the above permitted recreational activities; and shall also allow the periodic use, following written notification to the Division, of motorized vehicles for the purpose of maintaining such trails.

For initiating the process of finding a mutually agreed-upon layout of the proposed trail(s):

With respect to this Paragraph 4, whenever the Town contacts the Land Owner and Holder of the Conservation Restriction (CR-1) for the purposes of laying out said trails, the Land Owner and Holder of the Conservation Restriction (CR-1) shall respond to said request within 45 days. Any such request to reach a mutually agreed upon trail location shall not be unreasonably withheld so long as the granting of said mutual agreement is consistent with the terms and purposes of this Conservation Restriction (CR-1).

For maintenance and improvements (such as construction, postings, etc.) once the trails are laid out:

Whenever notification by the Town to the Land Owner and Holder of the Conservation Restriction (CR-1) with respect to trail maintenance or improvements as described in this Paragraph 4 is required, such notice shall be given in writing not less than 30 days prior to the date the notifying party intends to undertake the activity in question.

With respect to this Paragraph 4, the Land Owner and Holder of the Conservation Restriction (CR-1) shall respond in writing within 30 days receipt of written request therefore, and the notifying party shall not undertake the activity in question until the expiration of said 30-day period. Any such requested consent or approval shall not be unreasonably withheld so long as the granting of said consent or approval is consistent with the terms and purposes of this Conservation Restriction (CR-1). Failure to act in writing within the stated 30-day time period shall constitute consent or approval.

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 (CR-1).

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

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 the Division.

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 the Division.

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 Division-approved non-governmental organizations (provided that such permitting/mitigation does not involve alteration of the land subject to this CR).

13. 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 and/or NHESP/Division is required under the provisions of Paragraph A or B, Grantor shall notify Grantee and/or NHESP/Division 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 and/or NHESP/Division to make an informed judgment as to its consistency with the purposes of this Conservation Restriction (CR-1). Where Grantee and/or NHESP's/Division's approval is required, Grantee and/or NHESP/Division 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 shall not materially impair the purposes of this Conservation Restriction (CR-1). Failure of Grantee and/or NHESP/Division to respond in writing within sixty (60) days shall be deemed to constitute approval by Grantee and/or NHESP/Division 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 (CR-1) 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 (CR-1). If the Grantee is defined as more than one person or entity, the Grantee will seek to collectively take a single action to enforce this Conservation Restriction (CR-1), rather than take separate actions on behalf of each person or entity defined as the Grantee for the same enforcement purpose or violation of this Conservation Restriction (CR-1).

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 (CR-1)

against Grantor or taking reasonable measures to remedy, abate or correct any violation by Grantor thereof, provided that a violation of this Conservation Restriction (CR-1) 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 (CR-1) 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 (CR-1) 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 (CR-1), 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 (CR-1) 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. Legal Remedies of NHESP/Division:

Notwithstanding anything in the foregoing to the contrary, this Conservation Restriction (CR-1) shall also be enforceable by NHESP/Division. If NHESP/Division in its reasonable discretion determines that Grantee is not taking actions to monitor and/or enforce this Conservation Restriction (CR-1), NHESP/Division shall give written notice to Grantee of said unsatisfactory monitoring and/or enforcement and the reasons therefore, including the specific reasons therefore, and Grantee shall have 60 days in which to take action satisfactory to NHESP/Division to monitor and/or enforce this Conservation Restriction (CR-1). If NHESP/Division in its reasonable discretion subsequently determines that Grantee has failed to take such monitoring and/or enforcement actions within said sixty (60)-day period following written notice from NHESP/Division, then NHESP/Division in its reasonable discretion may monitor and undertake whatever action, including appropriate legal proceedings which include obtaining injunctive and other equitable relief, that NHESP/Division determines are reasonably necessary or appropriate to effect such corrections of any violations and/or otherwise enforce the terms and provisions of this Conservation Restriction (CR-1) as provided herein.

Grantor covenants and agrees to reimburse NHESP/Division for all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing its rights under Section IV of this Conservation Restriction (CR-1) or taking reasonable measures to remedy, abate or correct any violation thereof, provided that such violation is acknowledged by Grantor or determined by a court of competent

jurisdiction to have occurred. If NHESP or the Division is included as a party under the definition of Grantee, then the provisions of Section III.A shall govern.

V. Access:

This Conservation Restriction (CR-1) does not grant the Grantee, the public, or any other person or entity any right to enter upon the Premises, except as follows:

The Grantor hereby grants to the Grantee and/or NHESP/Division, or their respective duly authorized agents or representatives, 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 (CR-1). 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. The Grantor further grants to NHESP/Division, after notice of a violation by Grantor and failure of the Grantee to take action satisfactory to NHESP/Division to cure Grantor's violation, the rights 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 hereof, including but not limited to the right to have a survey of boundary lines conducted at the Grantee's expense. This Conservation Restriction (CR-1) in no way limits, amends or alters the legal authority of NHESP/Division to access the property of the Grantor, its successors and assigns.

VI. Extinguishment:

A. If circumstances arise in the future such as to render the purpose of this Conservation Restriction (CR-1) impossible to accomplish, this Conservation Restriction (CR-1) 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 (CR-1) 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 (CR-1) 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 (CR-1), 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.

VII. Assignability:

A. Running of the Burden.

The burdens of this Conservation Restriction (CR-1) 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 (CR-1); 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 (CR-1) 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 (CR-1) 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 (CR-1) 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.

VIII. Subsequent Transfers:

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction (CR-1) 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 (CR-1). 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 (CR-1) 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.

IX. 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 (CR-1).

X. Effective Date:

This Conservation Restriction (CR-1) shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded, or if registered land, it has been registered.

XI. Non-Merger:

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction (CR-1) into the Fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction (CR-1) to ensure that merger does not occur.

XII. Amendment:

If circumstances arise under which an amendment to or modification of this Conservation Restriction (CR-1) would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction (CR-1); provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction (CR-1) 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 (CR-1), 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.

XIII. 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 #400
Boston, MA 02114

To NHESP: Natural Heritage & Endangered Species Program
MA Division of Fisheries and Wildlife
100 Hartwell Street, Suite 230
West Boylston, MA 01583

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

XIV. General Provisions:

A. Controlling Law.

This Conservation Restriction (CR-1) 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 (CR-1) shall be liberally constructed in favor of the Grantee to effect the purpose of this Conservation Restriction (CR-1) and the policy purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision of this Conservation Restriction (CR-1) is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction (CR-1) 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 (CR-1) or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction (CR-1) shall not be affected thereby.

D. Entire Agreement.

This Conservation Restriction (CR-1) sets forth the entire agreement of the parties with respect to the Conservation Restriction (CR-1) and supersedes all prior negotiations, discussion, understandings or agreements relating to the Conservation Restriction (CR-1), all of which are merged herein.

XV. Miscellaneous:

A. Pre-existing Public Rights.

Approval of this Conservation Restriction (CR-1) 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 (CR-1).

B. Subordination of Mortgage.

The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction (CR-1) all documents necessary to subordinate any mortgage, financing statement or any other agreement which gives rise to a surety affecting the Property.

DRAFT

Executed under seal this _____ day of _____, 2013.

A.D. MAKEPEACE COMPANY

By: _____
Michael P. Hogan, President

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

_____, 2013

Then personally appeared before me the above-named Michael P. Hogan and proved to me through satisfactory evidence of identification, which was a current driver's license, 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

The above Conservation Restriction (CR-1) is accepted this _____ day of _____, 2013.

By: _____

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2013

Then personally appeared before me the above-named _____ 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 _____ of the _____, voluntarily for its stated purpose.

Notary Public
My commission expires:

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction (CR-1) to _____ has been approved in the public interest pursuant to MGL Ch. 184, s32.

Date: _____, 2013.

Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2013

Then personally appeared before me the above-named _____ 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 voluntarily as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts for its stated purpose.

Notary Public
My commission expires:

ACKNOWLEDGEMENT BY THE MA DIVISION OF FISHERIES AND WILDLIFE

This grant of Conservation Restriction (CR-1) set forth above to the _____
_____ is acknowledged this _____ day of _____, 2013. The Massachusetts
Division of Fisheries and Wildlife (the "Division") acknowledges the reserved rights and obligations of
the Division set forth herein.

Date: _____, 2013.

Wayne MacCallum, Director or Jack Buckley

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2013

Then personally appeared before me the above-named _____ 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 voluntarily as _____ of the
Massachusetts Division of Fisheries and Wildlife for its stated purpose.

Notary Public
My commission expires:

SEAL

Subordination of Mortgage

I/we, _____,
present holder(s) of a mortgage on property located at _____
_____, Massachusetts ("Premises") from _____ to _____
dated _____ and recorded with **Plymouth Registry of Deeds** in Book _____
Page _____, filed with **Plymouth** County Registry District hereby approve of, and
subordinate the Mortgage and the obligations secured thereby to the Conservation Restriction (CR-1)
covering all/a portion of the Premises to be recorded, to the same extent as if the Conservation Restriction
(CR-1) had been executed and recorded before the execution and recording of the Mortgage.

In Witness Whereof, the said _____
has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by
_____ its _____ this _____
day of _____, 2013.

BY:

_____, 2013
(Attach Acknowledgement Certificate Here)

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2013

Then personally appeared before me the above-named _____ 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 voluntarily as _____ of
_____ for its stated purpose.

Notary Public
My commission expires:

EXHIBIT A

Conservation Restriction (CR-1) Description (Metes and Bounds)

DRAFT

Exhibit A-1

Conservation Restriction Plan of Land, Revised DATE, prepared by Beals and Thomas, Inc.

DRAFT

EXHIBIT B

Permit

DRAFT

EXHIBIT C

Baseline Documentation Report

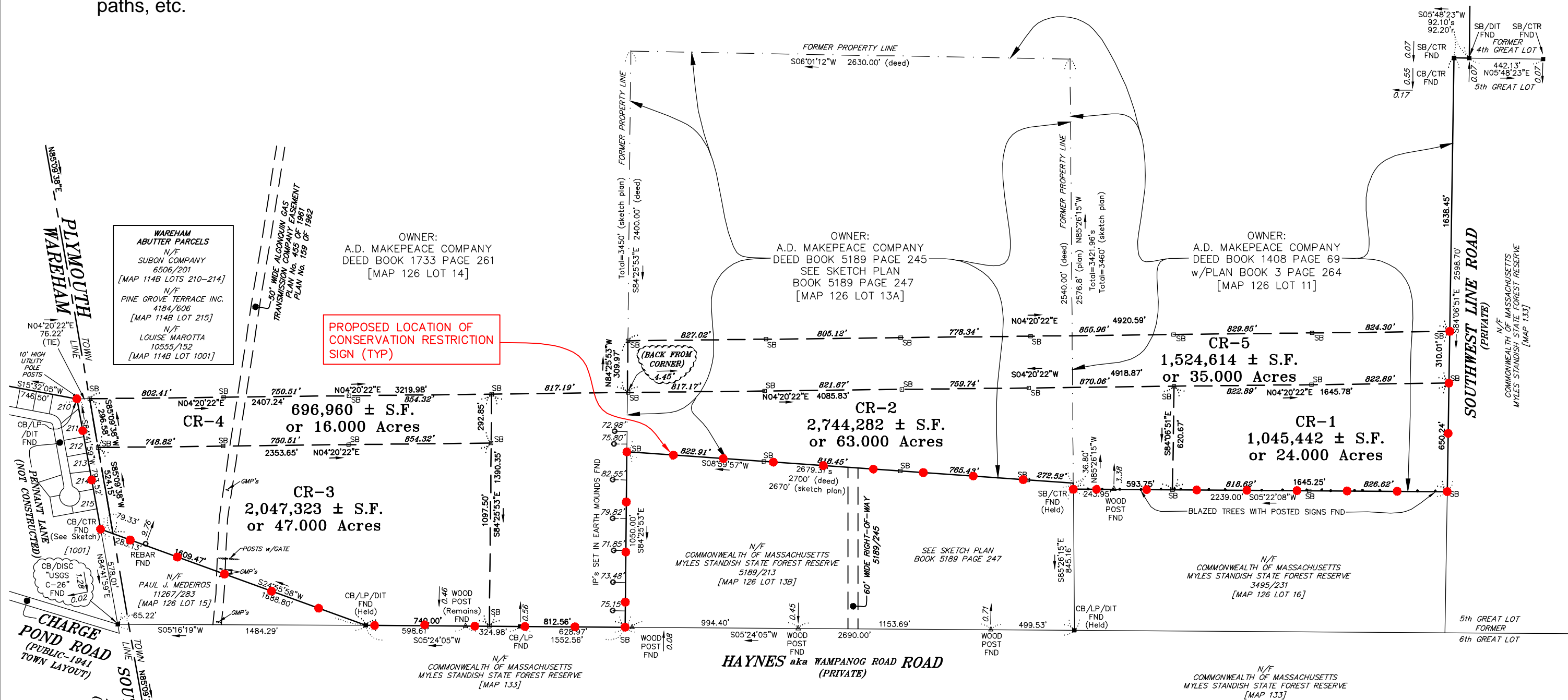
DRAFT

DRAFT

Attachment F

- Conservation Restriction Plan of Land

Note:
Proposed Conservation Restriction signs to be posted on existing trees approximately 300' apart and at all access points such as cart paths, foot paths, etc.



PROPOSED LOCATION OF CONSERVATION RESTRICTION SIGN (TYP)

Conservation Restriction
Attachment F
ADM Thonet
Mixed Use Development
Wareham, Carver and
Plymouth, Massachusetts



Attachment G

- License Agreement

ATTACHMENT G

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 H

- Escrow Agreement, dated 9/4/13

ATTACHMENT H

**Escrow Agreement
9/4/13**

PINE BARRENS CONSERVATION ESCROW AGREEMENT

This PINE BARRENS CONSERVATION ESCROW AGREEMENT (this “Agreement”) is entered into as of this ____ day of _____, 2013 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 and 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. _____ (“Permit”) issued by NHESP to ADM provides in paragraph ____ of the Special Conditions section requiring that ADM ensure that funds are available in the sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) (the “Funds”) for vegetation management, monitoring and research funding for rare pine barrens species research and habitat management and restoration implementation populations 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 mixed-use development project (the “Project”), located in Plymouth, 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) ADM shall deliver to Escrow Agent one third of the Funds, in the amount of Forty-Thousand Dollars (\$40,000.00) within ten (10) days after the commencement of “work” on the cranberry bog expansion as defined in the Permit (“Escrow Payment Date”).
 - (ii) ADM shall deliver to Escrow Agent an additional one fifth of the Funds, in the amount of Forty-Thousand Dollars (\$40,000.00) within one year after the Escrow Payment Date;

- (iii) ADM shall deliver to Escrow Agent an additional one-fifth of the Fund in the amount of Forty-Thousand Dollars (\$40,000.00) within two years after the Escrow Payment Date;
- (iv) ADM shall deliver to Escrow Agent an additional one-fifth of the Fund in the amount of Forty-Thousand Dollars (\$40,000.00) within three years after the Escrow Payment Date; and
- (v) ADM shall deliver to Escrow Agent the final one-fifth of the Funds within four years after the Escrow Payment 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: _____

To ADM:

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

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 other individual as a Party from time to time may designate by written notice to all other 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.

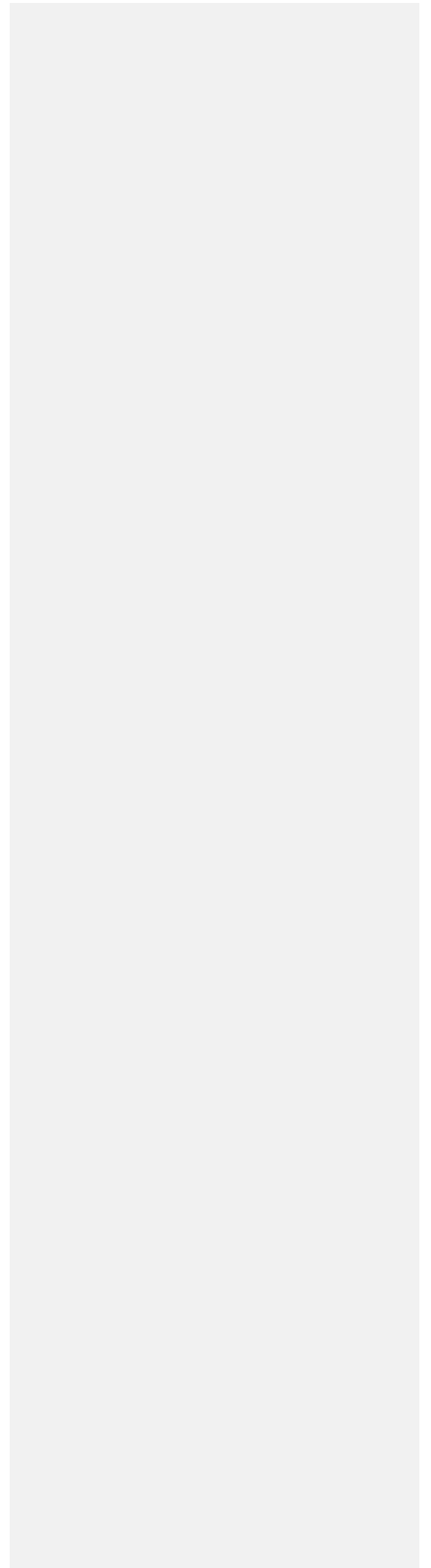
11. Miscellaneous

- 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.
- f. If any term, condition, or provision of this Agreement, or the application thereof to any circumstances, or party hereto, ever shall be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, condition, or provision to any other circumstance or party hereto (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.
- g. Each individual and entity executing this Agreement hereby represents and warrants that he she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.

12. Effective Date

This Agreement shall take effect on the latest date of execution by the NHESP, ADM, or Escrow Agent.

[SIGNATURE PAGES FOLLOW]



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:

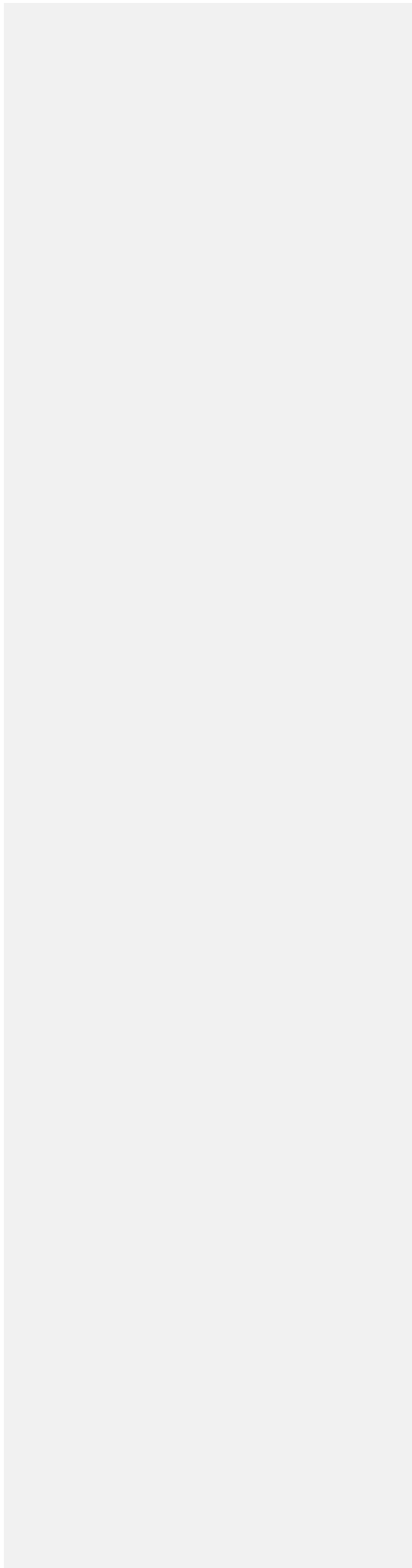
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2013

On this ____ day of _____, 2013, 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:

Deleted: AGAWAM

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. _____, 2013

¶

On this ___ day of _____, 2013, 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. _____, 2013

On this ____ day of _____, 2013, 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:

