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Office of Long Island Sound
Programs

79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employ

STATE OF CONNECTICUT File #LIS-2016-3768-V Date of Issuance: May 12, 2016

v.

FRANK A. FORASTIERE

AND

LILA M. FORASTIERE

AND

BOMBACI CONSTRUCTION COMPANY, INC.

I certify that this document is a true copy of a record
(original or photocopy, whichever is applicable)
on file at the Department of Energy and Environmental Protection
[Signature] 5/25/16
Signature (your title), Department of Energy and Environmental Protection

CONSENT ORDER

A. The Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. Frank and Lila Forastiere ("Respondents Forastiere") are the owners of 25 Blake Avenue, Clinton, CT ("The Property"). Bombaci Construction Company, Inc. ("Respondent Bombaci") is the contractor who was hired by the Forastieres to repair and over sheet their seawall described in paragraph A.2., below. The property is located adjacent to Long Island Sound, a tidal, coastal and navigable water of the State.
2. On December 18, 2014, Certificate of Permission (COP) #201411517-KR was issued to Respondent Forastiere to retain a steel sheet pile bulkhead and over sheet it with a new bulkhead and 6" concrete cap. The seawall repair work is depicted on sheets 1 through 6 of 6 entitled "Bulkhead Replacement," dated November 12, 2014, prepared by Robert E. Sonnichsen, a copy of which is attached hereto as "Attachment A."

3. On or before January 7, 2016 without authorization, Respondents conducted work out of compliance with COP #201411517-KR by installing a concrete cap and associated backfill which exceeds the authorized 6" cap as specified in SPECIAL TERMS AND CONDITIONS paragraph #6 of the COP. Such unauthorized work was conducted in accordance with the work as depicted on Dwg. No. SKS-1 entitled "Frank A. & Lila M. Forastiere, Sheet/Piling/Wall Detail," dated December 2, 2014, prepared by Michael Horton Associates, Inc. a copy of which is attached hereto as "Attachment B."
 4. The property and the location of the work described in paragraph A.3., above, shall hereinafter be referred to as "the site."
 5. Respondents did not receive a certificate or permit from the Commissioner under section 22a-361 of the Connecticut General Statutes (CGS) for the work described in paragraph A.3. at the site.
 6. By virtue of the above, Respondents have violated section 22a-361 of the CGS.
- B. With the agreement of the Respondents, the Commissioner, acting under CGS sections 22a-6, and 22a-361 orders Respondents as follows:
1. No Additional Work. Respondents shall not conduct any work waterward of the coastal jurisdiction line or in tidal wetlands at the site without prior written authorization of the Commissioner in accordance with CGS sections 22a-361 and 22a-32.
 2. Full compliance. Respondents shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the satisfaction of the Commissioner.
 3. Supplemental Environmental Project.
 - a. The Respondents have agreed to fund a supplemental environmental project ("SEP") or projects as selected by the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects." Therefore, on or before thirty (30) days after the date of issuance of this Consent Order, the Respondents shall pay \$1,500 to the Long Island Sound SEP Account. The payment shall be mailed or personally delivered to the Department of Energy & Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to the "Treasurer, State of Connecticut," with notation thereon "Long Island Sound SEP Account" and "Consent Order No. LIS-2016-3768-V."

- b. If the Respondents fail to fund the SEP in accordance with paragraph B.3.a. above, the Respondents shall immediately pay a civil penalty of \$1,750. Respondents shall pay such civil penalty in accordance with the provisions of paragraph B.4 of this Consent Order.
 - c. The Respondents shall not claim or represent that any SEP payment made pursuant to this Consent Order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and the Respondents shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
 - d. If and when the Respondents disseminate any publicity, including but not limited to any press releases regarding funding a SEP, the Respondents shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
4. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the "Connecticut Department of Energy & Environmental Protection," Financial Management Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Energy & Environmental Protection. The check shall state on its face, "Office of Long Island Sound Programs, Consent Order Nos. LIS-2016-3768-V."
5. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
6. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of Energy & Environmental Protection or an agent of the Commissioner. The date of "issuance" of this Consent Order is the date the Order is deposited in the mail or personally delivered to the Respondents, whichever is earlier.
7. Dates. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The

date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal legal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.

8. Notification of noncompliance. In the event that Respondents become aware that they did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondents shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Respondents shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay. The Commissioner's approval of any revised compliance dates shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
9. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by a duly authorized representative of the Respondents and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense in accordance with CGS Section 22a-6, under CGS Section 53a-157b and in accordance with any other applicable statute."
10. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondents to an injunction and penalties under Chapters 439, and 446i of the General Statutes.

11. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense in accordance with CGS section 22a-6, under CGS section 53a-157b.
12. Notice of transfer; liability of Respondents and others. Until Respondents have fully complied with this Consent Order, Respondents shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the site, structures, obstructions, encroachments, fill, operations or facilities which are the subject of this Consent Order, or obtaining a new mailing or location address. Respondents' obligations under this Consent Order shall not be affected by the passage of title to the site to any other person or municipality. A future owner of the site may be subject to the issuance of an Order from the Commissioner.
13. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any action to prevent or abate violations of law, prevent or abate pollution, recover costs and damages for adverse impacts to natural resources and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to correct violations.
14. Respondents' obligations under law. Nothing in this Consent Order shall relieve Respondents of other obligations under applicable federal, state and local law.
15. No assurance by Commissioner. No provision of this Consent Order or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the corrective actions taken by Respondents pursuant to this Order will result in compliance with regard to any statute, regulation, permit, order or other authorization not identified hereunder.
16. Access to site. Any representative of the Department of Energy & Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
17. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
18. Notice to Commissioner of changes. Within fifteen days of the date Respondents become aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant

information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.

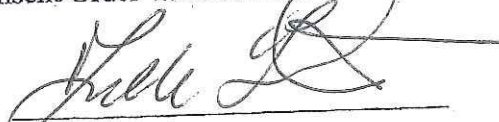
19. Joint and Several Liability. The Respondents shall be jointly and severally liable for compliance with this Consent Order.
20. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:

Kevin Zawoy
Department of Energy & Environmental Protection
Office of Long Island Sound Programs
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3626
Fax # (860) 424-4054

Frank and Lila Forastiere, and Bombaci Construction Co., Inc.
File #LIS-2016-3768-V

7 of 7

Respondents consent to the issuance of this Consent Order without further notice.



Frank Forastiere

5-1-16

Date

AND

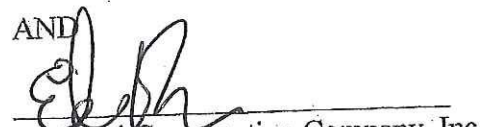


Lila Forastiere

5-1-16

Date

AND




Bombaci Construction Company, Inc.
Edward M. Bombaci, President

5-1-16

Date

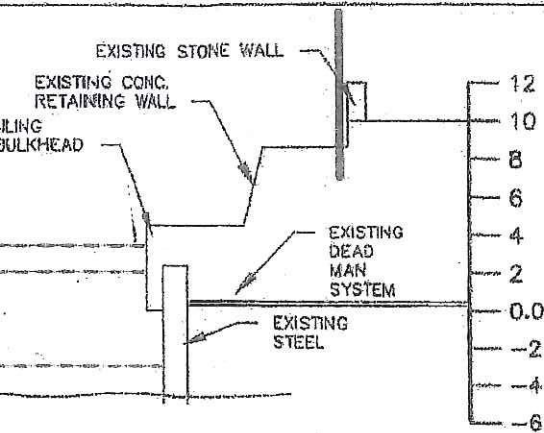
Issued as a final order of the Commissioner of Energy & Environmental Protection on

5/12, 2016.

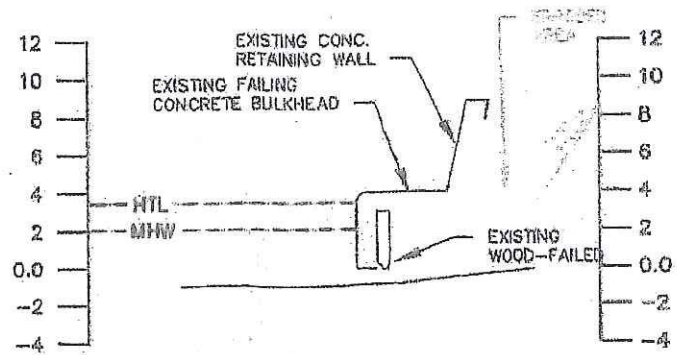


Michael Sullivan
Deputy Commissioner

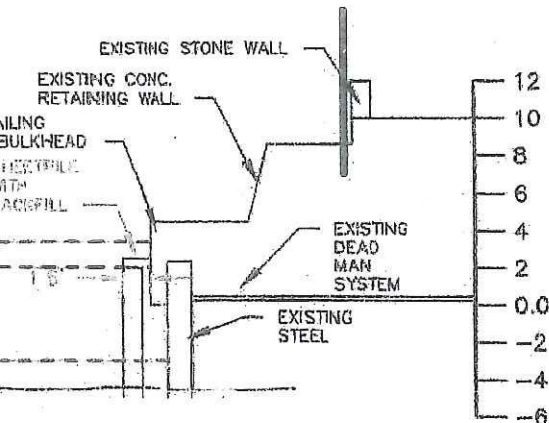
ATTACHMENT "A"



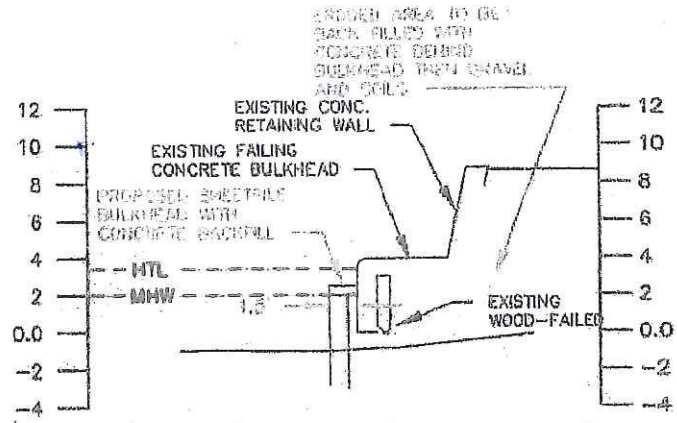
EXISTING SECTION A-A



EXISTING SECTION B-B



PROPOSED SECTION A-A



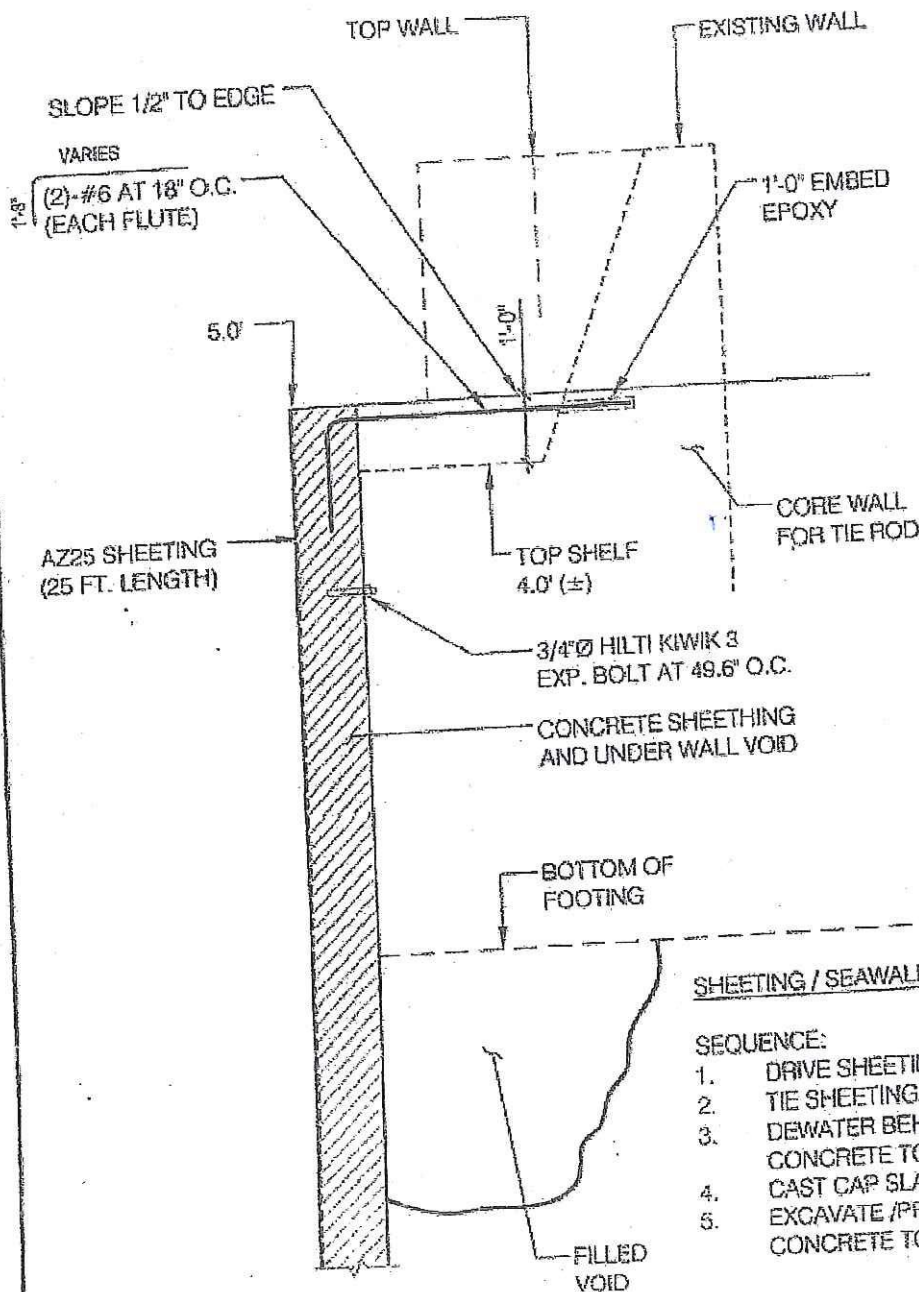
PROPOSED SECTION B-B

Permitting Agent: John B. Lust		FRANK & LILA FORASTIERE 25 BLAKE AVENUE NEW HAVEN COUNTY CLINTON, CONNECTICUT
Drawn By:	W.M.	
Checked By:	R.S.	
Date:	November 12, 2013	
Revised:		
DATUM = NAVD 88 HTL = 3.4 MHW = 2.0 MLW = -3.0		BULKHEAD REPLACEMENT CROSS SECTIONS A & B SECTION VIEW
		Sheet: 6 of 8

ATTACHMENT "B"

E.O.M-11-14-14

COP-SUBMITTED 12-1-14



SHEETING / SEAWALL STABILIZATION

SEQUENCE:

1. DRIVE SHEETING
2. TIE SHEETING TO WALL WITH EXP. BOLTS.
3. DEWATER BEHIND SHEETING AND PUMP CONCRETE TO FILL SHEET VOID AND UNDER WALL VOIDS
4. CAST CAP SLAB FLUSH WITH TOP SHEETING
5. EXCAVATE / PROBE TO BOTTOM SEAWALL AND PUMP CONCRETE TO FILL VOIDS.

SECTION

Scale: 3/8" = 1'-0"

1

MHAI

Michael Horton
Associates Inc.

Consulting Structural
Engineers
151 Meadow Street
Branford, Connecticut 06405
203-481-8600
mh-eng.com

Frank A. & Lila M. Forastiere
25 Blake Avenue, Clinton, Connecticut

SHEETING / WALL DETAIL

Date: 12-02-14

Drawn By: AC

Dwg. No.:

Scale: As Noted

Job No: 14-171

SKS-1

Received for Record at Clinton, CT
On 05/31/2016 At 11:11:44 am

Sharon J. Niccolini
Town Clerk