



STATE OF CONNECTICUT File #LIS-2017-3933-V Date of Issuance: 12/13/2018

v.

EDWARD ZIMMERMAN

AND

SHORELANDS, LLC

CONSENT ORDER

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

1. Shorelands, LLC is the owner of property identified on the Town of Madison Assessor's Map as Map 25, Lots 74 and 74-1 between Longshore Land and Shorelands Drive ("The Property"). The property is located off of the Long Island Sound, a tidal, coastal and navigable water of the State and includes tidal wetlands as defined by section 22a-29 of the Connecticut General Statutes ("CGS").
2. On June 28, 2007, the Department issued Certificate of Permission (COP) #COP-2007071-SB to Edward Zimmerman to remove and install new foot bridges and walkways within the tidal wetlands on the Property to provide walking access to Mud Beach. Collectively, Shorelands, LLC and Edward Zimmerman are referred to as the Respondents in the Remainder of this order.
3. On or before November 24, 2017, the Respondents violated COP-2007-070-SB by conducting unauthorized work on the Property and failing to comply with the special terms and conditions of COP #COP-2007-070-SB regarding the installation and removal of foot bridges and walkway structures in regulated areas.
4. In response to the unauthorized work, the Department issued Notice of Violation (NOV)

#LIS-2017-3933 to the Shorelands LLC on January 12, 2018 to remove the structures installed out of compliance with COP-2007-070-SB.

5. On May 5, 2018, the Department received documentation in the form of a letter and attached photographs showing that the structures described in the NOV have successfully been removed from the tidal wetlands.
 6. The property and the location of the work described in paragraph A.1., shall hereinafter be referred to as "the site."
 7. The Respondents did not receive any other certificate or permit from the Commissioner under sections 22a-361 and 22a-32 of the CGS for the work conducted at the site out of compliance with and unauthorized by COP-2007-070-SB.
 8. Respondent Edward Zimmerman filed a COP application #201813785, which was received on October 31, 2018 (the "COP application"). The decision on the COP application will provide the required terms and conditions for conducting the work referenced in the COP application as approved by the Department.
 9. By virtue of the above, Respondents have violated sections 22a-361 and 22a-32 of the CGS.
- B. With the agreement of the Respondents, the Commissioner, acting under CGS sections 22a-6 and 22a-361 and 22a-32, orders the Respondents as follows:
1. COP Application Decision. Upon receipt of a Certificate of Permission authorizing the work referenced in the COP application, the Respondents shall comply with all the terms and conditions of the COP upon commencement of the work as authorized in the COP.
 2. 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.
 3. 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.
 4. Penalty for past violations. On or before 30 days after issuance of this Consent Order, the Respondents shall pay a civil penalty of Three Thousand Five Hundred Dollars (\$3,500) for the violations of CGS sections 22a-361 and 22a-32 described in paragraph A.3., above.

5. 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, "Land and Water Resources Division, Consent Order No. LIS-2017-3933-V."
6. 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 the 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.
7. 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.
8. 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.
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 the Respondents or, if the Respondents are not an individual, by the Respondents' chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such

individual 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, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that 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 under §53a-157b of the Connecticut General Statutes and any other applicable law.”

10. Notification of noncompliance. In the event that the 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, the 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, the 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 the Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by the 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.
11. 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.
12. 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.
13. 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.
14. 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.

15. Respondents' obligations under law. Nothing in this Consent Order shall relieve Respondents of other obligations under applicable federal, state and local law.
16. 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.
17. 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.
18. 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.
19. 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.
20. Joint and Several Liability. The Respondents shall be jointly and severally liable for compliance with this Consent Order.
21. 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
Land and Water Resources Division
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3626
Fax # (860) 424-4054

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

Laurel H. Zimmermann
Shorelands, LLC
By: Laurel H. Zimmermann
President, Deerfield, Inc., its managing member

12-6-18
Date

AND

Edward Zimmermann
Edward Zimmermann

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

December 13, 2018.

Robert E. Kaliszewski
Robert E. Kaliszewski
Deputy Commissioner