



79 Elm Street • Hartford, CT 06106-5127

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Affirmative Action/Equal Opportunity Employer

STATE OF CONNECTICUT      File #LIS-2018-3997-V      Date of Issuance: 1/7/2019

v.

OCEANCO, LLC

AND

PAT MUNGER CONSTRUCTION COMPANY, INC.

#### CONSENT ORDER

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

1. Oceanco, LLC ("Respondent 1") is the owner of 506 Whitfield Street, Guilford, CT (The Property). Pat Munger Construction Company, Inc. ("Respondent 2") is the contractor who was hired by Respondent 1 to install a boat ramp along the shoreline of the Property. Collectively, Respondent 1 and Respondent 2 will be referred to as the Respondents. The Property is located adjacent to Sluice Creek, 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 October 30, 2017, the Department issued Permit #201615059 to Respondent 1 to construct a boat ramp to access the waters of Sluice Creek at the Property referenced in paragraph A.1., above.
3. On or before August 9, 2018 without any other authorization and out of compliance with permit #201615059, Respondents installed an approximately 14.5' wide x 28.5' long boat ramp containing 2" diameter stone gravel along its perimeter instead of the authorized 7' wide x 22' long ramp, and installed an approximately 4.5' wide x 40' long granite wall atop an approximately 5.5' wide x 40' long area of stone bedding waterward of the

coastal jurisdiction line (CJL).

4. The Property and the location of the work described in paragraph A.3., shall hereinafter be referred to as "the site."
  5. In response to the unauthorized work, the Department issued Notice of Violation (NOV) #LIS-2018-3997 to the Respondents to submit a restoration plan to bring the site back into compliance with the issued permit. The Department approved a plan for the restoration of the site, including the removal of unauthorized materials and the relocation of concrete blocks, in a letter to Respondent 1 dated November 21, 2018.
  6. Respondents did not received a certificate or permit from the Commissioner under sections 22a-361 and 22a-32 of the CGS for the work described in paragraph A.3. at the site.
  7. 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 Respondents as follows:
1. Respondents shall comply with all the terms and conditions of the Department's November 21, 2018 restoration approval letter and as further detailed in a plan entitled "Improvement Location Survey-Record," dated November 1, 2018, a copy of which is attached hereto as "Attachment A."
  2. Not later than March 1, 2019, Respondent 1 shall install and maintain in perpetuity public access signage at the site indicating that the boat ramp is available for public use. Not later than March 1, 2019, Respondent 1 shall submit photographs to the Department showing the posted signage. Respondent 1 shall also provide on-site a minimum of one parking location designated with signage for public access parking. In addition, Respondent 1 shall establish a coastal access Easement and Maintenance Agreement acceptable to the Department which shall be recorded on the land records. A copy of the Agreement must be submitted to the Department on or before April 1, 2019.
  3. 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.
  4. 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.



5. Penalty for past violations. On or before 30 days after issuance of this Consent Order, the Respondents shall pay a civil penalty of Eight Thousand Dollars (\$8,000) for the violations of CGS sections 22a-361 and 22a-32 described in paragraph A.3., above.
6. 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-2018-3997-V."
7. 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.
8. 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 Respondent, whichever is earlier.
9. 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.
10. 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 Respondents or, if Respondents are not individuals, by Respondents' chief executive officers or a duly authorized representatives of such officers, 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."

11. 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.
12. 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.
13. 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.
14. 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.

15. 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.
16. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondents of other obligations under applicable federal, state and local law.
17. 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.
18. 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.
19. 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.
20. 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.
21. Joint and Several Liability. The Respondents shall be jointly and severally liable for compliance with this Consent Order.
22. 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

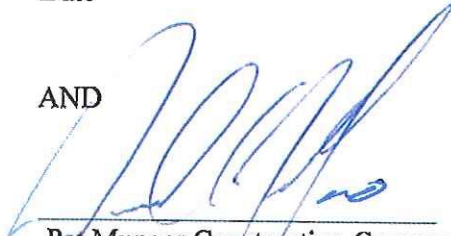
Respondents consent to the issuance of this Consent Order without further notice.



Oceanco, LLC  
by Michael J. Rothberg  
Duly Authorized

12/18/18  
Date

AND



Pat Munger Construction Company, Inc.  
By David A. Demaio, its President

12/18/2018  
Date

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

January 7, 2018. 

  
~~Robert E. Kaliszewski~~  
~~Deputy Commissioner~~



ATTACHMENT "A"

79 Elm Street • Hartford, CT 06106-5127

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Affirmative Action/Equal Opportunity Employer

November 21, 2018

Oceanco, LLC  
c/o Michael Rothberg  
530 Whitfield Street  
Guilford, CT 06437

RE: Revised Shoreline Restoration Plan Approval, Notice of Violation #LIS-2018-3997-V, 506  
Whitfield Street  
Town: Guilford

Dear Mr. Rotherberg:

On November 7, 2018, the Department received a revised restoration approved plan which is to supersede a restoration plan for the site which was approved by the Department on October 21, 2018. The revised restoration plan proposes the following: 1) utilize heavy equipment to relocate approximately nine existing 4' x 3' x 3' granite stone blocks to an on-site location landward of the CJL and outside tidal wetlands; 2) remove remaining granite blocks off-site; 3) remove approximately 8 cubic yards of crushed stone base located under the existing granite blocks and replace the stone base with topsoil material with plantings; and 4) remove approximately 10 cubic yards of stone fill located on both sides of the boat ramp and backfill the area with topsoil to the elevation of the surrounding grade and plant with tidal wetland vegetation.

Based upon the information provided, the Department hereby approves the restoration plan entitled "As Built & Remediation Plan," prepared by Thomas A. Stevens & Association, Inc., dated August 7, 2018 and revised to November 1, 2018 with the following conditions:

1. All work except the planting of tidal wetland vegetation must be completed no later than December 21, 2018, unless otherwise authorized by the Commissioner in writing;
2. All work must be conducted during low water conditions;
3. Once the fill is removed, a proper soil mixture must be backfilled to the elevation of the surrounding grade and a proper stable slope created. If it is not feasible to obtain plants, the planting of native salt tolerant vegetation must be completed no later than June 1, 2019. All areas of bare soils must be immediately seeded with quick germinating seed mix;
4. All work must be completed by hand or with heavy equipment staged outside any areas of tidal wetlands. At no time shall the property owner allow heavy equipment to access any areas of tidal wetlands;



5. The property owner shall, for a period no less than 2 years, submit annual monitoring report prepared by a qualified consultant, on or before September 30th of each growing season for the Commissioner's review and comment, detailing the status of the area of the removed materials and tidal wetland plantings. Such monitoring report shall contain at a minimum the following information: 1) visual description of the restoration areas which identifies the health and vigor of the tidal wetlands; 2) description of the shoreline condition and stability; 3) description of the restoration area identifying the species of plants growing; 4) description of any invasive plant species and recommendations to remove them; 6) any recommendations to improve the health and vigor of the growing plants; and 7) photographs of the shoreline area of concern;
6. Within 21 days of the completion of the work, Respondent shall submit site photographs which show pre-work, construction work, and post-work site conditions; and
7. All material removed must be disposed of at an approved upland disposal location landward of the coastal jurisdiction line and outside tidal wetlands.

Should you have questions on this matter, please do not hesitate to contact Kevin Zawoy of my staff at (860) 424-3626 or [kevin.zawoy@ct.gov](mailto:kevin.zawoy@ct.gov). Thank you.

Sincerely,



Brian P. Thompson, Director  
Office of Long Island Sound Programs  
Bureau of Water Protection & Land Reuse

cc: Town of Guilford Planning & Zoning Department  
Town of Guilford Engineering Department



