

## **SBPF AND DEP REACH AGREEMENT ON WINTER GEOTUBE CONSTRUCTION ISSUES**

In winter 2014, the ‘Sconset Beach Preservation Fund (SBPF) took a series of steps to put in place erosion control systems on a limited portion of ‘Sconset Beach and Bluff. This work was done in accordance with an Emergency Certification approved by both the Massachusetts Department of Environmental Protection (DEP) and the local Conservation Commission (ConCom). In conducting this project, we had dual goals of assuring that the work was complete before any major storm occurrence and that we acted in a way that was consistent with both the Emergency Order and the long-term safety/security of the beach.

We recently met with the DEP to review and address some concerns they had about the work conducted as part of that process and have reached an agreement around the notification and approval process associated with two important issues: work done to limit the impact of a runoff from a gully formed by a storm and a change in the approach we used for construction methodology used to provide water to create the sand slurry with which the geotubes were filled. In addition, we resolved questions surrounding the location of the work to install the geotubes.

### **Work done to limit the impact of a runoff from a gully**

In January of 2014 after a major storm event, SBPF’s contractor identified a gully being formed between the property at 91 Baxter Road, a low point in Baxter road, and the face of the coastal bank in that location. Washout from the gully both slowed the work taking place and that the presence of the gully increased the risk to the public health and safety, including the integrity of Baxter Road. After consultation among the contractor, SBPF and SBPF’s engineering firm, the engineering firm designed a drainage system to be installed in the proposed sand template for the work authorized by the EC and not to require excavation into the existing face of the coastal bank. SBPF was scheduled to appear before the Nantucket Conservation Commission. (the “NCC”) on January 22, 2014, at which point it would have had an opportunity to discuss the proposed drain, however, that meeting was cancelled due to storm conditions.

To assure that the work could be complete before sand deliveries were completed (important to avoid excavation), the proposed drainage system was installed in advance of the next ConCom meeting. The installation was done openly. Various representatives of the Town of Nantucket were present almost daily at the site and that the work was constantly photographed or videotaped and made public including on the internet by a variety of different observers. Though our understanding at the time was that the work constituted a field change and did not require specific permitting, we were later informed by the ConCom that a permit was required. We promptly sought to put the question before the ConCom, as well as capped the drainage system to be non-operational.

### **Construction of the Sand Slurry**

The geotubes that form the basis of the erosion control system on ‘Sconset Beach are filled with a sand slurry. The original approach for creating the sand slurry identified in the Emergency Certification process called for the use of fresh water from a fire hydrant. However, salt water from trenches associated with creating each layer of geotubes was used instead of hydrant water.

This change reflected a preference from the ConCom for a salt water based slurry, to limit any potential impact on salinity. The change was discussed with the ConCom, which SBPF understood to be the body that needed to be informed of a change of this nature.

In our conversations with the DEP about both the drainage issue and change to the sand slurry, it became clear that in addition to communicating with the ConCom about these issues, the DEP should have been notified and a more formal approval process followed. Despite the fact that the work was being done during a short period of time at a difficult time of year with severe weather conditions, we should have informed the DEP. We regret the lack of notification; however, it is not indicative of a lack of overall transparency about the work occurring on ‘Sconset Beach. We were timely and consistent in our communications with the ConCom about these issues.

### **Location of work**

The DEP asked SBPF about concerns voiced by the Nantucket Land Council (NLC) that the work being done included excavating the coastal beach below mean high water (MHW). SBPF’s consultant, Epsilon Associates, Inc., provided photographic evidence and an analysis of the tides and construction methods, demonstrating that the work done to create the seawater trenches and related berms pursuant to the EC occurred landward of the staked MHW. Once that evidence was reviewed, DEP did not pursue this issue.

### **Conclusion**

SBPF has agreed to pay a fine related to the procedures used on the two issues outlined above. While we regret the error, we are confident that the work proceeded in a way that was overall consistent with the Emergency Certification and important to achieving the goal of limiting further erosion and risk to Baxter Road. We thank DEP for their thoughtful involvement in this matter and look forward to their continued involvement in our efforts to protect ‘Sconset Beach.