



STATE OF CONNECTICUT      File# LIS-2013-3590-V      Date of Issuance: March 10, 2014

v.

STEPHEN MURRAY

AND

MUFFIE MURRAY

CONSENT ORDER

A. With the agreement of the Stephen and Muffie Murray ("Respondents"), the Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. The property located at 86 Beachside Avenue, Westport, Connecticut ("the property") is owned by Stephen and Muffie Murray. The property is located adjacent to Long Island Sound a tidal, coastal and navigable water of the State.
2. On November 6, 2007, Certificate of Permission (COP) #LIS-2007-147-SJ was issued to the Respondents by the Commissioner authorizing the removal of an existing seawall at the site in favor of the construction of an approximately 250 foot long stone revetment with 6' wide stairway for beach access.
3. On or before November 14, 2013, Respondents reconstructed the approximately 250 foot long stone revetment described in paragraph A.2., above, utilizing approximately 110 cubic yards of new stone over an approximately 1,880 square foot area waterward of the Coastal Jurisdiction Line ("CJL") located along the entire shoreline of the property. The revetment repair work as depicted on the Proposed Partial Plan & Typical Authorized/Existing Revetment Section, dated November 19, 2013 and revised January 21, 2014, prepared by Roberge Associates Coastal Engineers, LLC, a copy of which is attached hereto as "Attachment A."
4. On November 20, 2013, the Respondents submitted Certificate of Permission (COP) application #201305973-KZ to authorize the completed revetment repair work.
5. The property and the location of the work described in paragraph A.3., above, shall hereinafter be referred to as "the site".

6. Respondents have not received a certificate or permit from the Commissioner under section 22a-361 of the Connecticut General Statutes ("General Statutes") for the reconstruction and modification of the stone revetment described in paragraph A.3., above.
7. By virtue of the above, Respondents have violated section 22a-361 of the General Statutes.

B. With the agreement of the Respondents, the Commissioner, acting under sections 22a-6 and 22a-361 of the General Statutes, orders Respondents as follows:

1. Retention of reconstructed revetment: Respondents may retain the work completed at the site consisting of the reconstructed stone revetment described in paragraph A.3, above, pending a final determination on COP application #201305973-KZ, provided the Respondents can adequately justify the need for such stone revetment repairs.
2. COP Application. In the event that the Commissioner's final determination of COP application #201305973-KZ requires modification or removal of the stone revetment repairs waterward of the CJL, Respondents shall, not later than 30 days following issuance of a final determination, submit a timetable to the Commissioner for his review and written approval for conforming the existing structure to the terms and conditions of said decision. Upon written approval, Respondents shall conform such existing structures in accordance with the permit decision and the approved timetable.
3. No Additional Work. Respondents shall not conduct any work waterward of the CJL or in tidal wetlands at the site without prior written authorization of the Commissioner in accordance with sections 22a-361 and 22a-32 of the General Statutes.
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, Respondents shall pay a civil penalty of \$1,200.00 for the violation of section 22a-361 of the General Statutes described in paragraph A.3 above.
6. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Mr. Dennis Thibodeau, Department of 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 Environmental Protection. The check shall state on its face, "Office of Long Island Sound Programs, Consent Order No. LIS-2013-3590-V."

7. Approvals. 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 Respondent 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, 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. Notification of noncompliance. In the event that Respondents become aware that it 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.
11. 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 Section 22a-6 of the Connecticut General Statutes, under Section 53a-157b of the Connecticut General Statutes, and in accordance with any other applicable statute."

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 section 22a-6, under section 53a-157b of the CGS.
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. Respondents' obligations under law. Nothing in this Consent Order shall relieve Respondents of other obligations under applicable federal, state and local law.

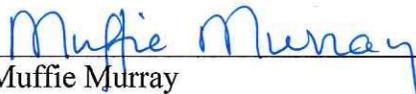
17. No assurance by Commissioner. No provision of this Consent Order or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the corrective actions taken by Respondents pursuant to this Order will result in compliance with regard to any statute, regulation, 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. 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:

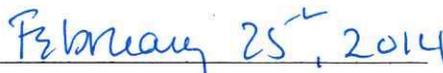
Kevin Zawoy  
Department of Energy & Environmental Protection  
Office of Long Island Sound Programs  
79 Elm Street  
Hartford, CT 06106-5127  
(860) 424-3626  
Fax # (860) 424-4054

22. Joint and Several Liability. The Respondents shall be jointly and severally liable for compliance with this Consent Order.

The undersigned certifies that he is fully authorized to enter into this Consent Order and to legally bind Respondents to the terms and conditions thereof.

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

  
Muffie Murray

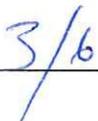
  
Date

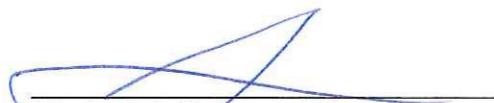
AND

  
Stephen Murray

  
Date

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

  
\_\_\_\_\_, 2014.

  
Macky McCleary  
Deputy Commissioner