

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

JUL - 2 2019

Brian Vanderhoop
c/o Kara E. Shemeth
Schofield, Barbini & Hoehn, Inc.
P.O. Box 339
Vineyard Haven, MA 02568



RE: ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE
Waterways License Application No. W18-5196, License No. 14868
Brian Vanderhoop, Menemsha Harbor, Menemsha Lease Lot "F" (1 Boathouse Road)
Town of Aquinnah and Town of Chilmark

Dear Sir or Madam,

The Department of Environmental Protection hereby issues the above-referenced Waterways License, enclosed, authorizing you to perform certain activities pursuant to M.G.L. c. 91, the Public Waterfront Act and its regulations 310 CMR 9.00. Any change in use or alteration of any structure or fill not authorized by this license may render this license void.

No work shall be undertaken until the License has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property.

RECORDING OF THE LICENSE

This License must be recorded at the Registry of Deeds or, if registered land, with the Land Registration Office within sixty (60) days from the date of license issuance. In the case of recorded land, the License shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the project is located. In the case of the registered land, the License shall be noted on the Land Court Certificate of Title of the owner of the land upon which the project is located. **Failure to record this license within sixty (60) days of the date of issuance will render this license void pursuant to 310 CMR 9.18.**

A Waterways License Recordation Notice Form has been enclosed for your use in notifying the Department of the recording information for this License. **Failure to notify the Department of the recording of this license is a violation of 310 CMR 9.00 and is subject to enforcement action by the Department.**

ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE

Page 2

Waterways License Application No. W18-5196, License No. 14868

Brian Vanderhoop, Menemsha Lease Lot "F" (1 Boathouse Road), Menemsha Harbor, Town of Aquinnah and Town of Chilmark

REQUEST CERTIFICATE OF COMPLIANCE

Pursuant to 310 CMR 9.19, once the proposed project is completed you must file a Request for a Certificate of Compliance form, BRP WW05, within sixty (60) days of completion but in no event later than five (5) years from the License's issuance date. The license for any project for which such a request is not filed and certificate issued may be revoked pursuant to 310 CMR 9.26.

Please feel free to contact Carlos T. B. Fragata of the Waterways Regulation Program, (508) 946-2873, if you have any questions pertaining to the recording of your Waterways License or Certificate of Compliance.

Sincerely,



David E. Hill, Environmental Engineer
Wetlands and Waterways Program

cc: w/enc. Ben Lynch, Waterways Section Chief, DEP Boston
Office of Coastal Zone Management
Town of Aquinnah Conservation Commission
Town of Chilmark Conservation Commission
Town of Aquinnah Harbormaster
Town of Chilmark Harbormaster (Commentor)
Town of Chilmark Board of Selectmen (Commentor)
Town of Chilmark Planning Board (Commentor)
Debbie Packer (Commentor)

Carlos T. B. Fragata
Department of Environmental Protection
Waterways Regulation Program
20 Riverside Drive
Lakeville, MA 02347

RE: Waterways Application No. W18-5196, License No. 14868, Transmittal #X277487
Menemsha Harbor, Town of Aquinnah and Town of Chilmark, Dukes County

Dear Mr. Fragata:

This is to notify you that the above referenced Waterways license was recorded with the appropriate Registry of Deeds / Land Court for this project location and to provide your office with the following recordation information.

Date of Recordation: _____

County Registry of Deeds: _____

Book number _____ and page number(s) _____

Land Court: _____

Land Court Lot # _____ Plan # _____

Certificate Document Number _____

We will notify your office in writing of the date the authorized work or change in use is completed.

Sincerely,

_____, Chapter 91 Waterways Licensee

**LICENSE VOID
IF NOT RECORDED
WITHIN 60 DAYS
OF ISSUANCE**

SIGNAGE SPECIFICATIONS - MassDEP Waterways Regulation Program (Updated September 20, 2012)

- Signs shall utilize durable materials and methods of construction and maintained in good condition.
- Signs shall be a minimum of 5" x 10" (or 50 square inches) in size. Letter height shall be a minimum of ½".
- The MassDEP Chapter 91 License number shall be displayed on all signs (as applicable).
- Each sign shall indicate that public passage is allowed for on-foot lateral access along the shoreline for the purpose of fishing, fowling, navigation and strolling.
- Signs shall be posted on both sides of the pier or structure, at the mean high water shoreline, or as directed by the Chapter 91 License (see Special Waterways Conditions, Page #2 or Page #3 for Simplified Licenses).

An example of an acceptable sign is provided below.



The Commonwealth of Massachusetts



No. 14868

Whereas, Brian Vanderhoop

of -- Aquinnah -- in the County of -- Dukes -- and Commonwealth aforesaid, has applied to the Department of Environmental Protection for a license to -- maintain an existing building, pier and piles for water dependent commercial uses --

and has submitted plans of the same; and whereas due notice of said application, ~~and of the time and place fixed for a hearing thereon~~, has been given, as required by law, to the -- Board of Selectmen -- of the -- Town of Aquinnah and Town of Chilmark. --

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said --

Brian Vanderhoop --, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to -- maintain an existing building, pier and piles for water dependent commercial uses --

in and over the waters of -- Menemsha Harbor -- at Menemsha Lease Lot "F" (1 Boathouse Road) --, in the -- Towns -- of -- Aquinnah and Chilmark -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 14868 (2 sheet(s)).

The structures hereby authorized shall be limited to the following uses: docking and boating access to navigable waters for commercial fishermen and storage of fishing gear and other water dependent purposes associated with commercial fishing.

This license supersedes Interim Approval No. 10877, issued on December 9, 2005 to Lynn and Susan Murphy, and License No. 13770, issued on November 19, 2014 to Brian Vanderhoop.

This license will expire thirty (30) years from the date of License issuance. By written request of the licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

SPECIAL WATERWAYS CONDITIONS:

1. In accordance with any license condition, easement, or other public right of lateral passage that exists on the subject property lying between the high and low watermarks, the Licensee shall allow the public in the exercise of such rights to pass freely around all structures within such intertidal area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on both the northerly/southerly sides of the building authorized herein, adjacent to the mean high water shoreline. Said signs shall be designed in accordance with the signage specifications provided by the Department, attached hereto, and be posted **within sixty (60) days of License issuance**. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.
2. In partial compensation for private use of structures on tidelands of the Commonwealth, which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activities by users of the area(s) intended for public passage, including but not limited to trespassing on the adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s.17c apply.
3. If, at any time in the future, a determination is made that the existing spiles (free standing piles) within Chilmark boundaries authorized herein pose(s) a substantial threat to the environment, natural resources, navigation and/or public rights, the Department hereby reserves the right to require complete or partial removal of said spiles. Such removal shall take place upon written notice from the Department.
4. Vessels shall be moored such that they do not become grounded at any tide.
5. No dredging (including, but not limited to effects of prop wash) is permitted herein.
6. All work authorized herein shall be completed within five (5) years of the date of license issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written request to extend the period and provides an adequate justification for said extension.
7. Within sixty (60) days of completion of the licensed project, the Licensee shall request in writing that the Department issue a Certificate of Compliance in accordance with 310 CMR 9.19. The request shall be accompanied by a certification by a registered professional engineer licensed in the Commonwealth that the project was completed in accordance with the License.

Duplicate of said plan, number 14868 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

STANDARD WATERWAYS LICENSE CONDITIONS

1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.
2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity or use authorized pursuant to this License.
3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.
4. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This license may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.
5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.
6. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof.
7. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, G.L. Chapter 131, s.40.
8. This Waterways License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the DEP, Division of Wetlands and Waterways.
9. This License authorizes structure(s) and/or fill on:

 Private Tidelands. In accordance with the public easement that exists by law on private tidelands, the licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.

 X Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.

 Great Pond of the Commonwealth. The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.

 Navigable River and Streams. The Licensee shall not restrict the public's right to use and pass freely, for any lawful purpose, in the Waterways.

No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.

10. Unless otherwise expressly provided by this license, the licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

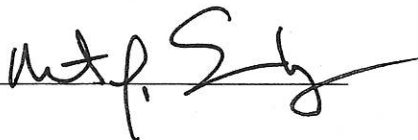
The amount of tidewater displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- Brian Vanderhoop -- by paying into the treasury of the Commonwealth -- two dollars and zero cents (\$2.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department (1 cubic yard(s) = \$2.00).

Nothing in this License shall be so construed as to impair the legal rights of any person.

This License shall be void unless the same and the accompanying plan are recorded within 60 days from the date hereof, in the Registry of Deeds for the County of Dukes.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 2nd day of July in the year two thousand nineteen.

Commissioner



Department
of Environmental
Protection

for Program Chief



THE COMMONWEALTH OF MASSACHUSETTS

This license is approved in consideration of the payment into the treasury of the Commonwealth by the said -- Brian Vanderhoop --

of the further sum of -- two thousand eight hundred eight dollars and zero cents (\$2,808.00) --

the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Approved by the Governor.

BOSTON,



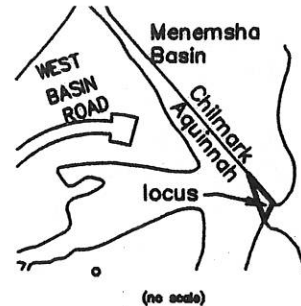
Governor



graphic scale—feet

Plan View

1" = 20'



LOCUS MAP

Previous Licenses
(to be superceded):
IA 10877 (2005)
13770 (2014)

Locus:
Lat 41-21-4.930
Long -70-45-56.120

Note:
Public Access
Over Dock

Approximate Lease Lines
for Aquinnah Lease Lot "F"

Pier:
3.7' x 22.8' x 25.3'
x 37.9' x 25.2' x 12.3'
Structure: 14.3 x 20.3

Pier = ± 685 sq ft
Structure = ± 290 sq ft

Plan to Accompany the Petition of Brian Vanderhoop

to license and maintain an existing,
water-dependant, commercial pier and structure
on Menemsha Lease Lot "F" (1 Boathouse Road)
in Aquinnah, MA,
extending into the waters of Menemsha Harbor
in Chilmark, MA

SCALE: 1" = 20' DATE: April 24, 2018
revised September 13, 2018

SCHOFIELD, BARBINI & HOEHN, INC.
LAND SURVEYING CIVIL ENGINEERING

12 SURVEYOR'S LANE, Box 339
VINEYARD HAVEN, MASS. 02568
508-693-2781

KSHEMETH@SBHINC.NET

SHEET 1 OF 2 SHEETS

JOB. NO. MV-11317

LICENSE PLAN NO.

14868

Approved by Department of Environmental Protection
of Massachusetts

JUL - 2 2019

David E. Hill
MtfS

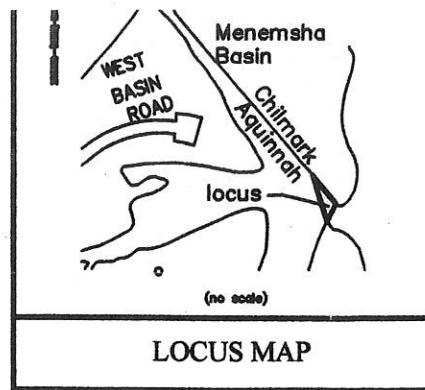
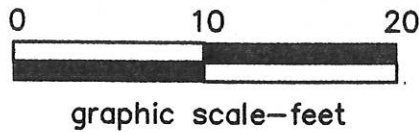
W18-5196

Notes:
Public Access
Over Dock

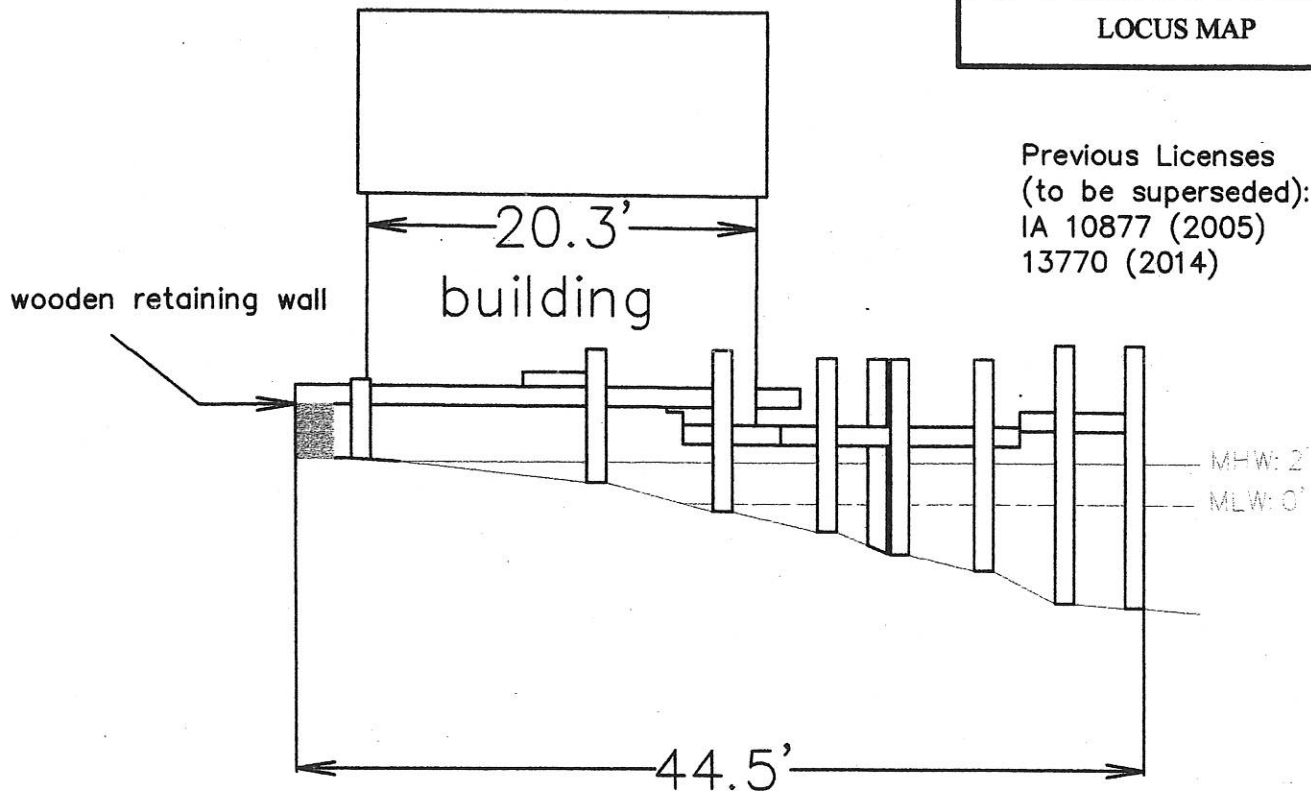
.60 Cubic Yards of
Displacement between
MHW and MLW

SECTION VIEW

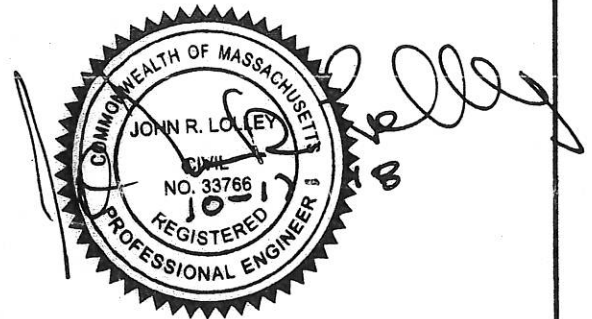
1" = 10'



Previous Licenses
(to be superseded):
IA 10877 (2005)
13770 (2014)



**Plan to Accompany the Petition of
Brian Vanderhoop**
to license and maintain an existing,
water-dependant, commercial pier and structure
on Menemsha Lease Lot "F" (1 Boathouse Road)
in Aquinnah, MA,
extending into the waters of Menemsha Harbor
in Chilmark, MA



SCALE: 1" = 10' DATE: April 24, 2018
Revised September 13, 2018

SCHOFIELD, BARBINI & HOEHN, INC.

LAND SURVEYING CIVIL ENGINEERING

12 SURVEYOR'S LANE, BOX 339
VINEYARD HAVEN, MASS. 02568
508-693-2781

KSHEMETH@SBHINC.NET

SHEET 2 OF 2 SHEETS

JOB. NO. MV-11317

LICENSE PLAN NO. **14868**
Approved by Department of Environmental Protection
Date: JUL - 2 2019