



## FREETOWN SOIL CONSERVATION BOARD

TOWN HALL      3 NORTH MAIN STREET  
ASSONET, MASSACHUSETTS 02702



Minutes of the Soil Conservation Commission  
Meeting April 2, 2012

Location: Council on Aging, Chace Road, E. Freetown

Present: Maria Ternullo, Keven Desmarais, Jean Fox, Lisa Pacheco, Paul Sadeck,  
Chairman

Guest: Representatives from Cape Cod Aggregate- David Peterson, Greg O'Brien

Chairman Sadeck opened the meeting at 7:00 p.m. Mr. Sadeck introduced the board members, Karen Robitaille, secretary and Jonathon Silverstein, Kopelman & Paige

The minutes reflect that three video recording devices were recording the meeting-

Recording the device are Comcast for the Soil Board, Ms. Paula Dugan, & Mr. Ed Dugan.

Attorney Jonathon Silverstein addressed the public regarding the reason for this public hearing. Due to litigation filed by Ms Dugan, Mr. Quinn, Mr. Lavoie for inadequate procedure. There was no judgment made but an agreement by the Board and the parties to conduct another public hearing.

The Chairman explained the procedure and the manner in which the meeting will be conducted.

Cape Cod Aggregate started the meeting with David Peterson explaining their application for permit renewal and the conditions governing the conditions. He addressed each condition, all 27, and the justification to request a waiver of certain conditions. See attached handout submitted.

Attorney Timothy J. Roskelley representing Ms. Dugan, Mr. Quinn, and Mr. Lavoie addressed the Board. Mr. Roskelley explained that the public hearing was called because the rights of the abutters to Cape Cod Aggregates were denied to speak. Also Cape Cod Aggregates openly violated 1/3 of the permits conditions. He stated, tonight's meeting is to consider the application which does not show any waivers of the conditions expressed by Mr. Peterson being the most critical one # 17, before a renewal permit is granted the

area previously worked shall be graded and re-seeded. The Board has not adequately protected the neighbors as stated in the Town By-Laws. See attached submittal from Anderson & Kreiger, LLP

Ms Dugan, 168 Bryant St., Berkley. addressed the Board requesting the board members to issue some restrictions;

Requesting a independent consultant for environmental or geological studies

Mitigation plan – noise, contaminated wells

Ms Martin, 161 Bryant St., Berkley Wanted to know how much of the area will be mined and how deep will it be? Mr. Peterson responded that 24 acres of the 88 acre site will be mined and it is below the water table.

Mr. Stephen Smith from GeoHydroCycle, Inc responded to the question. The elevation is presently at elevation 21, about five hundred feet. Monitoring wells are presently installed and CCA plan on installing pressure transducers in each of the nine wells. The transducers are designed to measure and record groundwater levels in the wells several times a day. The transducers will be downloaded quarterly.

Additional abutters were on record reporting the concerns regarding the noise of the operation, the vibrations of the blast, sediment in their water since the blasting began, the environmental impact, the lack of reporting and the dust and road conditions.

The abutters would like to see the Board issue additional conditions to the permit.

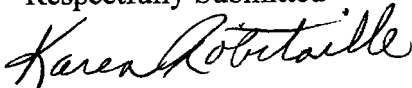
Chairman Sadeck expressed that he would like to continue this public hearing. All parties in the litigation agreed to ask the court for more time.

Motion made by Mr. Desmarais to continue the public hearing to Thursday April 26, 2012 at 7:00 p.m. at the Council on Aging. Seconded by Ms. Pacheco. All in favor.

Meeting adjourned at 9:00 p.m.

All materials presented at this meeting are on file and available for public viewing.

Respectfully Submitted

  
Karen Robitaille

# Freetown Soil Conservation Board

Town Hall 3 North Main Street  
Assonet, Massachusetts 02702

## CONDITIONS GOVERNING SOIL CONSERVATION APPLICATION AND PERMIT

The following conditions must be met and followed in order for a soil removal storage, or processing permit to be justified.

1. A continuous bond certificate in the amount of \$4,000.00 (four thousand) per acre shall be filed with the Freetown Soil Conservation Board. Said bond shall remain in force until the site has been determined by the Board to conform to the conditions outlined in # 7 below.

**CCA posts a bond in the amount of \$96,000 covering 24 acres at \$4000.00 per acre and is accordingly in compliance with this condition.**

2. A one-time charge, known as a "tipping fee" shall be made payable to the Town of Freetown. This tipping fee will be based on the rate of \$.25 cents per yard for each yard of material estimated to be removed from the site during the year. When the tipping fee is submitted, an estimate of the amount of material to be removed must also be included. The Soil Conservation permit will not be issued until a tipping fee, permit fee, certificate, and advertising fee are received. The method of estimate of the amount to be removed must be made available at Boards request.

### Requested Waiver

**CCA requests a waiver from this general condition. CCA asks that it be allowed to continue to calculate the tipping fee and deposit the required amount annually as we have done for the past five years. CCA will also continue to maintain a positive tipping fee balance with the Town which currently stands at \$50,000.00.**

3. There shall be no soil, loam, sand, stone, or gravel removed from any part of the premises covered by this license which lies within three hundred (300) feet of the layout line of a street, (unless material removed is for house lot preparation) or way, or within twenty (20) feet of all property lines.

**CCA has not removed any material within three hundred feet of any street layout as part of this license and is accordingly in compliance with this condition.**

4. Any soil or loam required to be stripped from the premises in connection with the removal of sand, gravel, and/or stone under this permit shall be stockpiled on the premises.

**All bam at this site was stripped prior to CCA owning the property.**

5. After the project has proceeded 600 feet, the operator shall slope, grade, and re-seed the initial 300 feet, before and during the period when he begins work on the following 300 feet. Thereafter he shall proceed to advance his operation at integral distance of 300 feet, while simultaneously grading, sloping, and re-seeding the previous integral distance of 300 feet. If the foregoing operations cannot be conducted simultaneously, operations shall cease until the previous 300 feet have been reworked.

excavation site was already below the apparent water table before CCA purchased the property. CCA's proven history at this site and the proposed enhanced monitoring program recommended by GeoHydrocycle indicates that a waiver from this condition is appropriate.

16. All access roads leading to the public ways shall be treated with stone, watered, or treated with environmentally approved dust control substances. No oil shall be used to treat the access road. A 200 foot bituminous concrete access apron shall be installed.

CCA constructed a bituminous asphalt roadway for the entrance and egress to the operation. All vehicles exiting the location are required to use the truck tire wash to reduce debris on the road. This access road is swept daily and watered as necessary in the dryer weather. CCA is accordingly in compliance with this condition.

17. Before a renewal permit is granted, the area previously worked shall be graded and re-seeded, and present operations shall be inspected at the time of renewal.

#### **Requested Waiver**

Similar to condition #5, this condition would preclude the successful operation and development of a quarry. Areas outside of the active quarry hole have been re-vegetated. Areas within the active quarry hole cannot be re-vegetated until the completion of the operation. CCA fully expects to continue with Town inspections and will operate the quarry based upon the strict safety guidelines imposed by the Department of Labor Bureau of Mines (MSHA).

18. Faces of banks shall be knocked down and sloped at the end of each day so as to prevent any overhangs or straight faces.

CCA complies with this condition and does this routinely as a BMP. (Best Management Practice)

19. Any individual Soil Conservation Board Member, or the full Board shall have the right to inspect the gravel operation at any time.

CCA will comply with this condition, however, inspections by any Town official must be done with an escort from CCA as required by MSHA.

20. The hours of operation of the grave/ area shall not exceed the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Exceptions further restricting these hours can be made by the Soil Conservation Board with written reasons given. Examples of further restriction may apply to but not exclude: noise, traffic, erosion problems.

CCA complies with this condition.

21. The conveyance of the property covered by this license, by the licensees, or either of them, shall result in the termination of the right to remove any further sand, stone, gravel, or loam under this permit and the premises shall be restored as provided above. This termination shall not be effective if prior to such conveyance, a bond conditioned on the full performance of all of the terms and conditions of this license and with sureties satisfactory to the Soil Conservation Board of Freetown, be filed with such Board.

**CCA will comply with this condition.**

22. Any plan submitted to the Soil Conservation Board should indicate the presence of any wetlands or protected areas as indicated by the Wetland Protection Act Regulations, M.G.L. Chapter 131, Section 40.

**CCA complies with this condition. Our survey revealed no wetlands or protected areas within 100' of the quarry operations.**

23. For those sites with suitable storage capacities, a general storage plan should be outlined with future activity also shown.

**CCA is submitting this information within the existing conditions plan.**

24. Those operations involved with the processing of material with necessary water storage should so indicate the source, discharge, and recycling capabilities within its boundaries; and also should have a contingency plan regarding abutting properties in writing.

**CCA is submitting this information.**

25. This permit is granted in conformity with the Soil Removal By-Laws accepted by vote of this Town on March 10, 1956, and amendments to the By-Laws on May 25, 1964, and April 26, 1966.

26. The Soil Conservation Board reserves the right to review all projects involving the use of coal ☐ash described in Mass General Law 111 Section 150A not covered by the Site assignment ☐process. Project involving the use of coal ash will be required to obtain a Soil Conservation Board permit from the Town of Freetown if one is not already enforced. The plans of the project will be examined for their conformance with, and will be subject to, those regulations listed above for all Soil Conservation project permits.

**N/A**

27. The tipping fee for the use of coal ash in projects not covered by a Site Assignment, those listed in Mass. General Law 111 Section 150A, will be a minimum of \$.69 per ton or yard (whichever one is greater). The tipping fee shall be continuous with the duration of the permit payable on a monthly basis.

**N/A**



CAPE COD AGGREGATES CORP.  
1550 PHINNEYS LANE  
P.O. BOX 517  
BARNSTABLE, MASSACHUSETTS 02630

## **CCA Water Storage (Condition 24)**

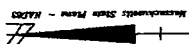
CCA uses water in the processing of finished product at our Bryant Street (Quarry Drive) location. The water is used to clean the stone that is crushed and sized through the processing plant. Water is also used as dust control for roadways and the excavation area as well as for the truck tire wash system.

The water is sourced from a combination of storm water collection and ground water wells. CCA maintains a series of ponds that include a ground level fresh water storage pond, above ground wash water settling ponds and sump ponds used to settle and control the storm water and quarry dewatering process. The water used in the crushing and washing process is part of a closed loop system that washes the stone and then discharges into a series of on site culverts and ponds so that it can settle out the fines and be reused in the washing process. This water never leaves the site and while storm water is fed into this system, water from this system is not allowed to discharge back into the storm water collection system. This is a one-way system that provides ample wash water for the plant and dust suppression applications such as the water truck.

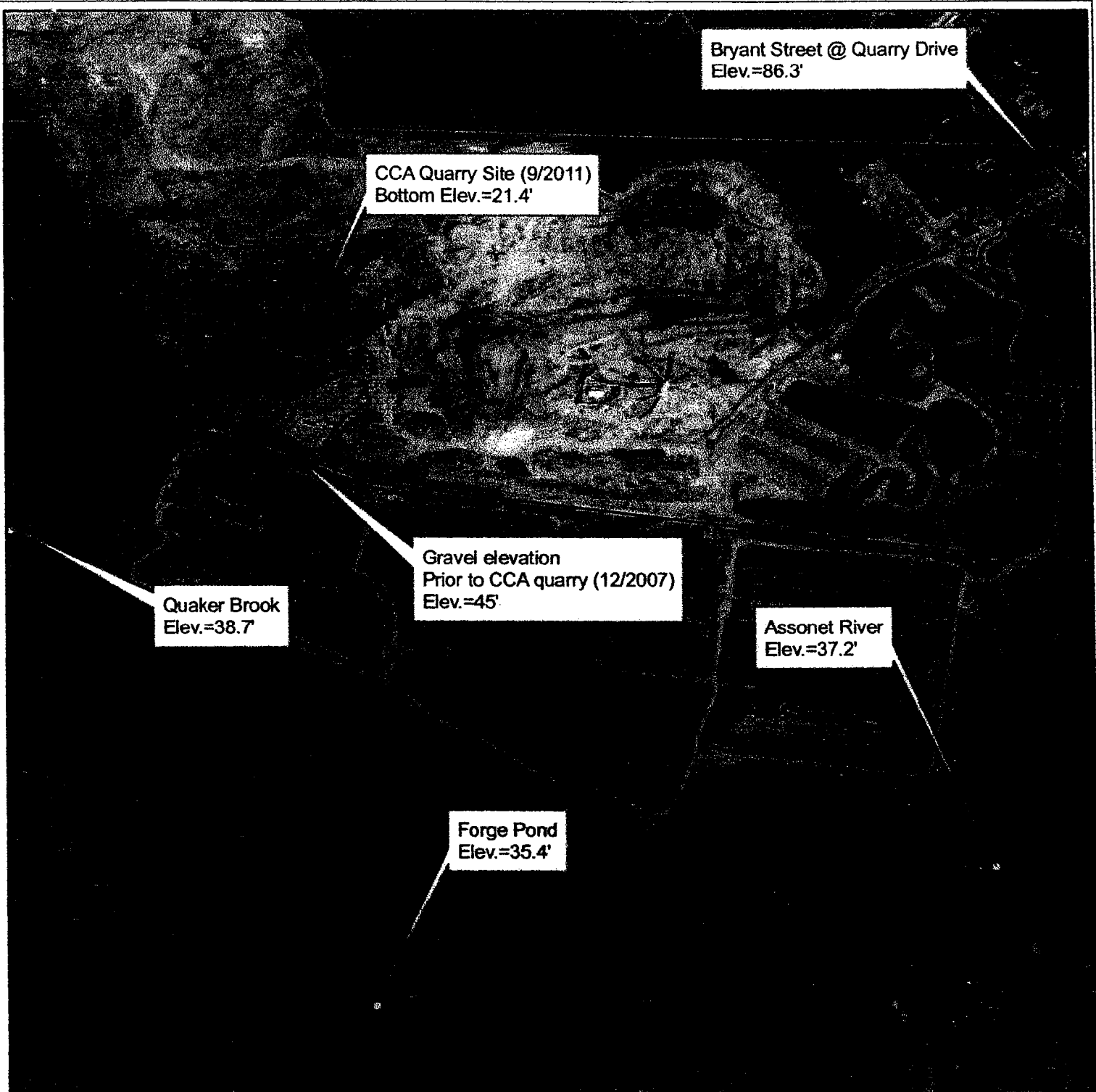
Additionally, the water for the truck tire wash is also sourced from the recycled water and discharges back into the recycling system.

The recycling system provides the majority of the water used in all of the on site applications. The water is mainly sourced from the collection of storm water and stored in the ground level fresh water storage pond. This pond can be supplemented from on site wells, but to date this has not been necessary. CCA has been able to collect enough storm water to satisfy its needs.

With regard to contingency plans, the only ponds that have the potential to impact any neighbors would be the settling ponds in the south-west corner of the property. It is important to note that these ponds are inspected daily in order to maintain the appropriate levels necessary to run. A breach of these ponds is highly unlikely, but if there were to be a breach the only neighbor that could be impacted would be the Pettey Cranberry bogs to the south. We have good communication with Mr. Pettey as he relies on water from our site in order to maintain his cranberry bogs. If a breach of the settling ponds were to occur because of the elevations the wash water would travel and collect in Mr. Pettey's fresh water storage pond. Upon recognizing there was a breach we would contact Mr. Pettey and he would immediately close the weirs on his property that lead off site. If for any reason we were unable to contact Mr. Pettey he has given us permission to enter his property and set the weirs ourselves. His fresh water storage pond has ample storage capacity to contain the entire volume of our settling ponds. After the breach was contained and allowed to settle, CCA would work to repair the breach and with Mr. Pettey work to clean his storage pond and restore it to its prior condition.



- NOTES
1. BUILDING NUMBER: 5 1/2 BRYANT STREET
  2. ASSESSOR'S NUMBER: MAP 202, PARCELS 19
  3. ZONING DISTRICT: GENERAL USE
  4. FLOOD HAZARD ZONES: C, & A
  5. TOPOGRAPHIC INFORMATION BASED ON AN  
ON THE GROUND INSTRUMENT SURVEY
  6. ELEVATIONS SHOWN ARE BASED ON  
ON THE GROUND INSTRUMENT SURVEY
  7. REFERENCE: PLAN BOOK 146 PAGE 20



2009 Aerial Orthophoto provided by MASS GIS.  
All elevations are based on the NGVD29 vertical datum.



## Sketch of Elevations

in  
Freetown, MA  
prepared for:  
Cape Cod Aggregates, Corp.

prepared by:  
Holmes and McGrath, Inc.  
362 Gifford Street  
Falmouth, MA 02540

# ANDERSON & KREIGER LLP

**TIMOTHY J. ROSKELLEY**  
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Fax: 617-621-6639

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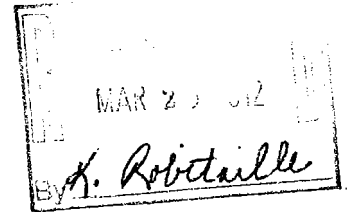
MAR 28 2012

BOARD OF SELECTMEN

March 27, 2012

## Overnight Delivery

Paul G. Sadeck, Chairman  
Town of Freetown  
Soil Conservation Board  
3 North Main Street  
Assonet, MA 02702



**Re: Request for Revocation of Permit No. 0507 (Cape Cod Aggregates)**

Dear Chairman Sadeck:

On behalf Edward Quinn of 15 Leonard Ave, Assonet, MA 02702, Gerald Lavoie of 1 Leonard Ave, Assonet, MA 02702 and Paula Dugan of 168 Bryant Street, Berkley, MA 02779, I write to request that the Town of Freetown Soil Conservation Board (the "Board") (1) hold a public hearing on proof of violations that Cape Cod Aggregates ("CCA") is violating the conditions of a permit issued by the Board in October 2011 and (2) upon proof of such violations, revoke CCA's permit.

On October 12, 2011, CCA filed an application to renew its permit for earth removal and processing at its quarry in Freetown. On October 24, 2011, after a cursory public hearing, the Board approved the application and issued Permit No. 0507 to CCA, with conditions.

Section 6.4 provides that "[t]he Board shall after a public hearing on proof of violation of any condition, revoke any permit so issued." CCA's permit must be revoked because it has violated the following conditions:

Condition 12. Operations shall not be performed below the road grade.

Condition 16. All access roads leading to the public ways shall be treated with stone, watered, or treated with environmentally approved dust control substances.

Condition 17. Before a renewal permit is granted, the area previously worked shall be graded and re-seeded, and present operations shall be inspected at the time of renewal.

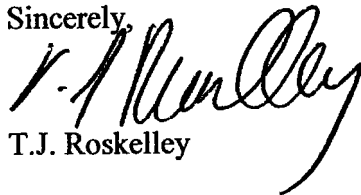
In support of this request, we provide the following: (1) CCA's operations start on the surface, at road grade, and involve blasting below the road grade; (2) based on observations of the road from the quarry to Bryant Street, CCA has failed to consistently and properly control dust on that access road; and (3) there is no indication in CCA's renewal application that the areas previously worked had been graded and re-seeded and no evidence presented at the hearing on the renewal that the Board had inspected the present operations at the quarry.

We further request that the Board require CCA to provide proof that it is meeting the other conditions in its permit. In particular, CCA should provide proof that it is not violating Condition 5 (requiring sloping, grading and re-seeding following every 300 feet of work), Condition 10 (prohibiting excavation that causes accumulation of free-standing water and requires permanent drainage that does not lead directly to streams or ponds), and Condition 15 (prohibiting excavation within 4 feet of the water at its highest measurement).

Per the March 9 order of the Massachusetts Land Court in *Quinn et al. v. Cape Cod Aggregates et al.* (11 MISC 457212) the Board will hold a further public hearing on CCA's permit renewal application on April 2. Given the overlapping substance, we request that the Board hold the revocation hearing requested by this letter and the remand hearing simultaneously. This would save the Board and the public the time and expense of two separate hearings.

I look forward to hearing from you.

Sincerely,



T.J. Roskelley

c: Jonathan Silverstein, Esq. (by email)  
Diane Tillotson, Esq. (by email)  
Clients