Auction Binder
The Provident Bank
Hatter's Cove Marina
Foreclosure Auction / Secured Party Sale
DATE: May 1, 2009
Amesbury, Mass.

IN THIS PACKET - TABS 17 - 20

TABLE OF CONTENTS- Hatter's Cove Marina
4-3-09 Draft

BANK LOAN and RELATED DOCUMENTS

TAB 1. Mortgage Deed -.....Recorded – Book 23009 Page 301
.....Land Court – Document 141376, Cert. #75042

TAB 2. Notice of Mortgagee's Foreclosure Sale of Real Estate

TAB 3. Memorandum of Foreclosure Sale

TAB 4. Foreclosure Deed

TITLE DOCUMENTS-BAILEY'S POND – 75-77 Merrimac Street

TAB 5. Deed – Bailey's Pond Parcel - Recorded – Book 19261 Page 82
Land Court – Document 405339, Cert. #75042

TAB 6. Land Court Plan 26500A, Sheet 1

TAB 7. Land Court Plan 26500D

TAB 8. Tax Map

TITLE DOCUMENTS-MARINA – 60 Rear Merrimac Street

TAB 9. Marina Easement Book 18960 Page 177

TAB 10. Assignment of Marina Easement Book 18960 Page 460

TAB 11. Marina License – Mass DEP Book 22607 Page 566

TAB 12. Easement Plan – Marina Easement – Three (3) views

TAB 13. Easement Plan – Sewer and Storm Drain Utilities

TAB 14. Land Court Plan 26500A, Sheet 2

TAB 15. Tax Map

SELECTED CONDOMINIUM DOCUMENTS

TAB 16. Condominium Document Excerpts

TAB 17. Amended and Restated Master Deed Book 18960 Page 180

TABLE OF CONTENTS- Hatter's Cove Marina
4-3-09 Draft

ENVIRONMENTAL and PERMIT INFORMATION – BAILEY'S POND

TAB 18. Permit History (Partial)

TAB 19. DEP Action – Oct. 25, 1994

TAB 20. DEP Action – Oct. 21, 2002

TAB 21. DEP Action – Feb. 28, 2003

TAB 22. DEP Action – Dec. 26, 2005

MISCELLANEOUS

TAB 23. MLC – 60 Rear Merrimac Street Map 99 Lot 23A

TAB 24. MLC – 75 Merrimac Street Map 99 Lot 3

TAB 25. MLC – 77 Merrimac Street Map 99 Lot 4

TAB 26. Title Insurance Commitment

48

13
& PLAN 5

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07/19/2002 15:09:00 MDEED Pg 1/48

69

HATTER'S POINT CONDOMINIUM

A CONDOMINIUM COMMUNITY FOR PERSONS FIFTY-FIVE YEARS OF AGE AND OLDER

AMENDED AND RESTATED MASTER DEED

TABLE OF CONTENTS

		Page
1.	Name of the Condominium	2
2.	Organization of Unit Owners	2
3.	Description of the Land	2-4
4.	Description of the Building(s)	4
5.	Descriptions of the Units and Their Boundaries	4-6
	A. Description of the Units	4-5
	B. Boundaries of the Units	5-6
	(1) Floors	5
	(2) Ceilings	5
	(3) Interior Walls	5
	(4) Exterior Walls	5
	(5) Exterior Doors	5
	(6) Windows	5-6
	C. Appurtenances to Units	6
6.	Description of the Common Areas and Facilities	6-8

Return to:

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MEEB 7/15/02

TAB 17

7. Undivided Interest - - - - - - - - 8-9

8. Plans - - - - - - - - - - 9-10

9. Common Easements and Right of Access - - - - 10-11

10. Encroachments - - - - - - - - 11

11. Intended Use- - - - - - - - - 11

12. Restrictions on Use - - - - - - - - 11-18

13. Rights Reserved to the Declarant - - - - - - 18-24

14. Title to Units - - - - - - - - - 24

15. Combining Contiguous Units - - - - - - 24

16. Units Subject to Master Deed and Condominium Trust - - 24-25

17. Sale or Lease of Units - - - - - - - 25-26

A. Subject to Condominium Documents - - - - 25-26

B. No Partition or Severance - - - - - - 26

18. Amendment of Master Deed - - - - - - 27-28

19. FNMA/FHLMC Provisions - - - - - - 28-34

20. Conflicting Provisions - - - - - - - 34

21. Invalidity - - - - - - - - - 35

22. Waiver - - - - - - - - - 35

23. Captions - - - - - - - - - 35

24. Chapter 183A - - - - - - - - 35

25. Duration - - - - - - - - - 35-37

HATTER'S POINT CONDOMINIUM

A CONDOMINIUM COMMUNITY FOR PERSONS FIFTY-FIVE YEARS OF AGE AND OLDER

AMENDED AND RESTATED MASTER DEED

Whereas, the Amesburyport Corporation, a Massachusetts corporation with a principle place of business at 60 Merrimac Street, Amesbury, Essex County, Massachusetts (hereinafter referred to as the "Declarant") being the sole owner, under a deed therefore dated July 26, 2000, and filed with the Essex County Land Registration District Registry as Document Number 371450, of that certain realty known and numbered as 60 Merrimack Street, Amesbury, Essex County, Massachusetts, as more fully described hereinafter, did submit said land, together with the buildings and improvements then or to be thereafter erected thereon, and all easements, rights and appurtenances belonging thereto (hereinafter collectively called the "Property"), to the provisions of Massachusetts General Laws, Chapter 183A, as then and as may be thereinafter amended (hereinafter referred to as "Chapter 183A") by filing with said District as Document Number 402235 a Master Deed dated April 29, 2002, and did thereby create, with respect to the Property, a condominium governed by and subject to the provisions of Chapter 183A;

Whereas, the Declarant did voluntarily withdraw said realty from the land registration system pursuant to and in accordance with Massachusetts General Laws, Chapter 185, Section 2;

Whereas, the Declarant wishes to correct a scrivener's/technical error with regard to the recording references for items 13, 14, 15 and 16 on Attachment A pursuant to and in accordance with Section 18 of the Master Deed;

Whereas, the Declarant wishes to amend said Master Deed in connection with the development of the Condominium pursuant to and in accordance with Section 13E of the Master Deed;

WHEREAS, the Declarant wishes to add certain Units to the Condominium also pursuant to and in accordance with Section 13; and

WHEREAS, the Declarant is the sole Unit Owner of the Units in the Condominium, having not conveyed any thereof.

NOW THEREFORE, said Master Deed is amended and restated as follows:

1. Name of the Condominium. The name of the condominium created shall be the HATTER'S POINT CONDOMINIUM (hereinafter sometimes referred to as the "Condominium").

2. Organization of Unit Owners. The Association through which the Unit Owners will manage and regulate the Condominium is HATTER'S POINT CONDOMINIUM ASSOCIATION, INC., established by Articles of Organization of even date and with By-Laws recorded herewith (hereinafter sometimes referred to as the "Association" and the "By-Laws", respectively). Said Articles of Organization and By-Laws establish a membership organization of which all Unit Owners shall be members and in which such Owners shall have an interest in proportion to the percentage of Undivided Interest in the Common Areas and Facilities to which they are entitled hereunder. The original Declarant appointed Director thereof is the Merrimac Street Management Corporation. Both corporations have an address of 60 Merrimac Street, Amesbury, MA 01913.

3. Description of the Land. The Land portion of the Property comprising the Condominium is that (those) certain parcel(s) of land situated in Amesbury, Essex County, Massachusetts, being known and numbered as 60 Merrimack Street, and described as delineated on Attachment A hereto. The Land is further subject to and has the benefit of such rights, easements, restrictions and encumbrances as are of record and

in force; and the rights and easements established herein. The Land is additionally subject to such rights and easements as may be hereinafter reserved to the Declarant, which later rights and easements shall, in all instances, be exercisable by the Declarant and its successors or assigns, whether so stated or not.

Among the rights, easements, restrictions and encumbrances to which the Land is subject or has the benefit of, there are the following:

A. The Land of the Condominium is subject to an easement running to the Town of Amesbury and its Inhabitants for use of the River Walk shown on the Site Plan and for access thereto via sidewalks provided therefore, all as more particularly provided in the easement therefor described in Attachment A. As provided in said easement, the obligation to maintain the said River Walk shall be the Association's and all costs incurred thereon shall be Common Expenses.

B. The Land of the Condominium is additionally subject to an easement described in Attachment A hereto reserved to the Declarant, in gross, or his designee, providing for the construction and operation of a marina and related buildings and improvements (the " Marina") on the Common Area, utilization of certain Common Area parking facilities, erection, maintenance, use and access to docks and slips, use of Common Area roads for access to the marina facilities, utilization of certain area within Building 9 of the Condominium, as shown on the Floor Plans, for storage purposes, and other related matters. No use shall be made of the Common Areas of the Condominium nor shall action be taken that seeks to or has the effect of interfering with the rights granted by this easement.

C. The Land of the Condominium is also subject to the terms and provisions of a certain License granted by the Department of Environmental Protection, Commonwealth of Massachusetts under Chapter 91 of the General Laws of Massachusetts more fully described in Attachment A hereto. The Directors shall at all times ensure that the Condominium is operated and maintained in order to

fully comply with the terms and conditions thereof and shall seek the renewal thereof in a timely manner.

D. In order to protect the Condominium from overflow from the adjacent body of water known as Bailey Pond, should the Declarant or the Town of Amesbury be able to secure an appropriate easement, license, right and/or agreement therefor, the Association shall maintain the weir on said Bailey Pond free of debris and in good working order. The Association shall, in all events, additionally maintain the Bailey Pond outflow pipe pursuant to the Strom Drain Easement described in Attachment A hereto. All costs thereof shall be Common Expenses.

4. Description of the Building(s). The Buildings portion of the Property comprising the Condominium (presently Phase 1A) consists of the buildings shown on the Site Plan recorded with the original Master Deed and principally encompass a number of so-called mill buildings located along the Merrimack River in Amesbury, Essex County, Massachusetts. The buildings are primarily constructed of brick on stone and concrete foundations with either asphalt shingle or membrane roofs. Phase 1A consists of Buildings 8 and 9 shown on the Site Plan, Building 8 being four (4) stories including a basement level containing parking and Building 9 being five (5) stories including a basement level containing parking.

5. Descriptions of the Units and Their Boundaries. The Units, their respective boundaries and the appurtenances thereof are as hereinafter delineated.

A. Description of the Units. The Condominium was initially comprised of two so-called "Base Units" as was delineated on Attachment B to the original Master Deed, and was denominated as Phase IA, Subphase 1. As hereinafter provided, the Declarant shall have the right to subdivide the Base, Units which are essentially raw space, and create residential Units therein and to appropriately amend Attachment B to describe the residential Units created;

provided, however, that there shall be a maximum of forty-eight (48) residential Units in Phase I of the Condominium, and pursuant thereto the Declarant has so subdivided the Base Units and created nine (9) residential Units as are delineated on Attachment B hereto. These nine Units are denominated as Phase IA, Subphase 2. Any Unit Owner may at any time, or from time to time, change the use and designation of any room or space within his Unit provided such use and designation is consistent with all other provisions hereof.

B. Boundaries of the Units. The boundaries of the Units with respect to the floors, ceilings, walls, exterior doors and windows thereof are as follows:

(1) Floors: The plane of the upper surface of the concrete subflooring;

(2) Ceilings: The plane of the lower surface of the ceiling joists or strapping, if there be any;

(3) Interior Walls: The centerline of the demising walls between units where such demising walls are double stud with an intervening air space or the plane of the interior surface of the furring strips; or if there be no furring strips, the plane of the interior surface of the wall studs on other demising walls;

(4) Exterior Walls: The plane of the interior surface of the furring strips; or if there be no furring strips, then the plane of the exterior surface of the plaster;

(5) Exterior Doors: The exterior surface of the door in its entirety, including the frame, jambs, hardware, threshold and flashing, including the exterior molding or trim, if any; and

(6) Windows: The exterior surface of the windows in their entirety, including the frame, mullins, muntins, sash, stiles, lights, hardware and flashing, including any exterior molding or trim, if any;

provided, however, that no structural component of the Building nor any pipe, wire, conduit, duct, flue, shaft, utility line or like item situated within a Unit, but forming a part of any system serving one or more other Units, shall be considered to be a part of any Unit. Pipes, wires, and or other conduits for utilities, including exhaust fans and ducts, and heating, ventilating and air conditioning equipment, whether located within or without the boundary of a Unit, and serving only that Unit, are a part of the Unit.

C. Appurtenances to Units. Each of the Units has as an appurtenance thereto the exclusive right and easement to, consonant herewith and subject to the Rules and Regulations promulgated pursuant to the By-Laws, use the following (sometimes herein also referred to as the "Limited Common Areas and Facilities" or "Limited Common Elements"):

(1) The balcony immediately adjoining the Unit and to which there is direct access;

(2) The indoor or outdoor parking space assigned to the Unit in the initial unit deed, or such as it may have been exchanged therefor as hereinafter provided; and

(3) The storage enclosure, if any, constructed within an appurtenant indoor parking space.

6. Description of the Common Areas and Facilities. The Common Areas and Facilities of the Condominium (sometimes herein also referred to as the "Common Elements") consist of the entire Property exclusive of the Units, all as hereinbefore described and defined, and any other property which is herein expressly included in the Common Areas and Facilities, including, without limitation, the following:

A. The Land together with the benefit of, and subject to, all rights, easements, reservations, conditions and restrictions of record as the same may be in force and applicable;

B. The foundations, structural columns, girders, beams, supports, interior structural or bearing walls, all portions of the exterior and interior walls, ceilings, floors and roofs not included as part of the Units, and common walls within the Building;

C. Installations for central and/or common services such as power, light, oil, gas, hot and cold water, heating, air conditioning, and waste disposal, including all equipment attendant thereto (but not including equipment contained within and/or serving a single Unit);

D. All conduits, chutes, ducts, shafts, plumbing, wiring, flues and other facilities for the furnishing of utility services and waste removal which are contained in portions of the Building contributing to the structure or support hereof or for common usage, and all such facilities contained within any Unit, which serve parts of the Building other than the Unit within which such facilities are contained;

E. All common equipment wherever located in, on, or around the Building(s) and Land;

F. The entrance doors to the Building(s), lobby vestibules, halls, corridors and stairways serving more than one Unit, and all facilities therein;

G. The yards, lawns, gardens, walkways, passageways, parking areas and the improvements thereon and thereof, including fences, walls, railings, and steps;

H. The Limited Common Elements located outside the Units' boundaries, subject to the exclusive rights to use thereof and obligations thereon as herein and in the By-Laws provided;

I. All other apparatus and installations existing in the Buildings for common use, or necessary or convenient to the existence, maintenance or safety of the Buildings; and

J. All other items delineated as such in Chapter 183A and located on the Property.

The Common Elements shall be subject to the provisions hereof and of the By-Laws, and to the Rules and Regulations as may be promulgated thereunder with respect to the use and maintenance thereof.

7. Undivided Interest. The Unit Owner of each Unit shall have an Undivided Interest in the Common Areas and Facilities in the percentages as specified in Attachment B, for so long as the only Units in the Condominium are those listed on Attachment B. From and after the addition to the Condominium of any subsequent Phase or Sub-Phase containing additional Units as provided for hereinafter (the "Additional Units"), the Undivided Interests to which the Units are entitled shall be reduced accordingly, and the Undivided Interests to which the pre-existing Units and all additional Units subsequently included herein shall be determined upon the basis of the approximate relation that the fair value of each Unit bears to the aggregate fair value of all Units as provided for in Section 5(a) of Chapter 183A.

Upon acceptance and recording of any Unit Deed or Mortgage, the Unit Owner or Mortgagee shall be deemed to have acknowledged and consented to such reduction in Undivided Interest. Accordingly, as provided Section 5(b)(1) of Chapter 183A any amendment by which the Declarant, its successor or assigns, adds Additional Units to the Condominium will include a new Attachment B, setting forth the adjusted Undivided Interests for all Units. To that end, an accurate determination of the Beneficial Interest in the Common Elements to which pre-existing Units and all such Additional Units shall be determined in accordance with the following formula:

$$P = \frac{V}{SV}$$

$$V = (A) \times (F)$$

(A) "P" is the undivided interest to be expressed in the form of a percentage in the Common Elements of the Unit for which such percentage is to be determined (the "Subject Unit");

(B) "V" is the Value applicable to the Subject Unit as determined in accordance with the formula above and rounded to the nearest whole number.

(C) "SV" is the Sum of the Values assigned to all Units then included in the Condominium as such Values have been determined pursuant to the formula above;

(D) "A" is the approximate area of the Subject Unit as measured between the boundaries of said Subject Unit; and

(E) "F" is any additional factor or factors (the "Additional Factors") which Declarant (and its successors and assigns) in its reasonable discretion may determine in the future materially affects the approximate relation that the fair value of each additional Unit bears to the aggregate fair value of all Units in the Condominium, as determined pursuant to this section.

The percentage figures so determined shall be rounded by the Declarant to the least extent, if any, necessary as determined by Declarant in its sole discretion, to obtain a 100.000 percent total for all Units. Each Unit Owner and Mortgagee, by acceptance of a Unit Deed or mortgage, shall be deemed to have consented to the foregoing changes in percentage interests and to the rights reserved to the Declarant under this Master Deed and in the Declaration of the Condominium Trust, and shall be deemed to have conferred upon the Declarant a durable power of attorney, coupled with an interest, to carry out the foregoing changes and rights as their attorneys-in-fact.

8. Plans. Simultaneously with the recording of the Master Deed there was recorded a set of floor plans of the Buildings showing the layout, location, Unit numbers and dimensions of the Units then therein, stating the name of the Buildings or that they have no name, and bearing the verified statement of a registered architect or

engineer certifying that the plans fully and accurately depict the layout, location, Unit numbers and dimensions of the Units then therein as built (the "Floor Plans"). Said plans further showed the location of certain of the Common Areas and certain of the Common Facilities. There is likewise recorded herewith a set of Floor Plans showing such particulars for the Units added by Phase IA, Subphase 2. Additionally recorded with the original Master Deed was a site plan showing the approximate location of the Buildings and certain of the Common Elements (the "Site Plan").

9. Common Easements and Right of Access. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, flues, cables, conduits, utility lines, and other Common Elements located in any of the other Units or elsewhere in the Condominium and serving his Unit and to use the common roads, walkways, halls, and similar items for access to his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, wires, ducts, flues, cables, conduits, utility lines, and other Common Elements located in such Unit and serving other Units. The Directors, and any of them, any manager or managing agent, and any other person authorized by the Directors or by any manager or the managing agent, shall have a right of access to each Unit at reasonable times and upon reasonable notice, except in emergencies, for the purpose of making inspections or for the purpose of correcting any conditions originating in any Unit or threatening another Unit or Common Element or adversely affecting the Common Expenses, or for the purpose of obtaining access to, and performing installations, alterations or repairs on the mechanical or electrical services or other Common Elements in any Unit or elsewhere in the Buildings, or for any other purpose permitted by this Master Deed or the By-Laws. In case of an emergency, such right of entry shall be immediate, by any appropriate means, whether the Unit Owner is present at the time or not.

10. Encroachments. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion

of the Common Elements, or if any such encroachment shall occur hereafter as a result of (a) alteration or repair to the Common Elements made by or with the consent of the Directors, or (b) settling of all or any portion of the Building(s), or (c) repair or restoration of the Building(s) or any Unit after damage by fire or other casualty, or (d) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building(s) stand.

11. Intended Use. The Buildings, the Units and other Common Areas and Facilities are intended to be used solely for residential purposes, the Common Elements being used incidental and accessory thereto. The Buildings, the Units and other Common Areas and Facilities may, with the written consent of the Directors, be used for such other lawful purpose, or purposes, as shall not interfere with, nor conflict with, these intents or the restrictions hereinafter or in the By-Laws contained.

12. Restrictions on Use. The use of the Units, the Building(s) and the other Common Areas and Facilities shall, in addition to those restrictions and requirements contained in the By-Laws, be restricted as follows:

A. No Unit shall be used for any purpose other than residential housing for one family or such number of unrelated individuals as is permissible under the applicable zoning ordinance. Notwithstanding the foregoing, to the extent permitted by the applicable zoning ordinance, a person residing in any Unit, may maintain therein a personal office for his professional and/or business use, provided that no employees or persons other than such resident of the Unit shall engage in any such activities in the Unit, no such office shall be advertised or held out or used as a place for service to clients, patients or customers and there is no extra ordinary package delivery.

B. EXCEPT AS PROVIDED IN ATTACHMENT C TO THIS MASTER DEED, NO LESS THAN ONE HUNDRED PERCENT (100%) OF THE UNITS SHALL BE OCCUPIED BY AT LEAST ONE PERSON WHO IS 55 YEARS OF AGE OR

OLDER. EXCEPT AS PROVIDED IN THE NEXT FOLLOWING PARAGRAPH, THIS SECTION 12.B MAY NOT BE AMENDED WITHOUT THE WRITTEN CONSENT OF ONE HUNDRED (100%) PERCENT OF THE UNIT OWNERS, ONE HUNDRED (100%) PERCENT OF THE MORTGAGEES AND THE DECLARANT AND/OR ITS SUCCESSORS AND ASSIGNS. AS A CONDITION TO OCCUPANCY, OCCUPANTS MUST AGREE TO ABIDE BY THIS AGE RESTRICTION AND THE REQUIREMENTS CONTAINED IN ATTACHMENT C TO THIS MATER DEED.

Notwithstanding the foregoing or any other provision of this Master Deed to the contrary, if the Declarant (or its successors or assigns) should default in its obligations to any lender holding a security interest in the Declarant's reserved rights hereunder and such lender forecloses on such rights or acquires the same by deed or assignment in lieu of foreclosure, or otherwise succeeds to such retained rights, such lender, or any purchaser at such foreclosure sale, may amend this Master Deed so as to remove or modify the restriction on the occupancy of Units contained in this Section 12B, as such lender or purchaser sees fit, by duly recording a written amendment executed by such lender or purchaser, and it shall be deemed that all Unit Owners and their respective Mortgagees shall have consented to such amendment, and, for such purpose, should it be necessary, it shall be deemed that each Unit Owner and their respective Mortgagee have irrevocably appointed such lender or purchaser as their attorney-in-fact, such power of attorney being coupled with an interest, to execute the same on their behalf.

C. No Unit may be leased, rented or let unless upon a written agreement therefore in a form and content acceptable to the Directors and for a term of no less than twelve (12) months; and provided further that (1) a copy of said agreement is provided to the Directors prior to the occupancy thereunder, and

(2) said agreement contains a clause whereby the occupants agree to be bound by this Master Deed, the By-Laws and the Rules and Regulations promulgated pursuant thereto which the Directors shall provide to the occupants upon such reasonable fee as they determine; (3) there is full compliance with the restriction on occupancy provided for in subsection B above; (4) it shall be deemed during the period of such occupancy that the Unit Owner has irrevocably appointed and constituted the Directors as the Unit Owner's attorney-in-fact to seek at the Unit Owner's expense the eviction, equitable relief and/or damages of and/or from such occupants upon any breach of said agreement or a violation of this Master Deed, the By-Laws and/or the Rules and Regulations promulgated pursuant thereto provided that the Directors first give the Unit Owner notice of said violation and reasonable period to affect a cure; (5) the letting is for the entire Unit; (6) no subletting is permitted; and (7) in no event shall it be deemed that a landlord/tenant relationship exists between the Association and the occupant.

In addition to the foregoing, at no time may more than thirty (30%) percent of the Units, or such lower percentage as may be required by any so-called secondary mortgage market source, be leased at any one time. To ensure that this limitation is not exceeded, a Unit Owner who intends to lease his Unit shall first seek the consent of the Directors to rent, whereupon the Directors will notify the Unit Owner if this limitation has been met. In such event, the Unit Owner shall not seek to or let the Unit. If this limit has not been met, permission shall be granted for a one-year period. Should the Unit Owner who has received permission desire to relet the Unit, or extend the current tenancy, he shall again seek the consent of the Directors, which shall be granted provided the Unit Owner is current in the payment of his Common Expenses and there are no outstanding violations of the Master Deed, By-Laws or Rules and Regulations. Except for the foregoing, all such requests shall be granted upon a first

come/first serve basis; provided, however, that the Directors shall endeavor to ensure that all Unit Owners who so desire are granted an opportunity to rent their Unit with the aforesaid limitation for which purpose they may establish Rules and Regulations. The occupation of a Unit by a member of the immediate family (mother, father, son, daughter) of the Unit Owner shall not constitute the renting, letting or leasing of the subject Unit for these purposes.

Notwithstanding the foregoing, in such event as during the course of occupancy of a tenant demonstrates a disregard for the provisions of this Master Deed, the By-Laws and/or the Rules and Regulations, the Directors shall so notify the Unit Owner who shall thereupon be precluded from extending the tenancy of such occupant beyond the original lease term;

D. The architectural integrity of the Buildings and the Units shall be preserved and to that end: no awning (except as hereinafter provided), screen, antenna, sign, banner or other device, and no exterior change, addition, structure, projection, decoration or other feature shall be erected, applied to, or placed upon or attached to or hung from any Unit, or any part thereof, on the Buildings or upon any other Common Element; no addition to or change or replacement of any exterior light, door knocker or other exterior hardware shall be made; and no painting, attaching of decalcomania or other decoration shall be done on any exterior part or surface of any Unit nor on the interior surface of any window, including the display of "For Sale", "For Rent" or other signage, without, in each instance, the express consent thereto in writing by the Directors. Such restrictions shall not, however, be construed to restrict a Unit Owner's right to decorate his Unit as he should so determine; provided, however, that to the extent such decoration when viewed from the exterior of any Unit, if such shall be so viewable, detracts, in the reasonable judgment of the Directors, from the aesthetic or architectural integrity of the Building, the Unit Owner may be

required to undertake such reasonable measures as the Directors may determine to ameliorate such detraction and further provided that all window treatments such as drapes, blinds, shades, etc., shall have a white exterior facing surface. Such restrictions shall not be construed to restrict a Unit Owner's right to move, remove, alter or change any interior, non-structural, wall or partition, nor change the use and/or designation of any room within his/her/their Unit; provided, however, that such shall not adversely affect the structural integrity of the Buildings nor overload the Buildings' systems and provided further, that (1) reasonable advance notice thereof is given to the Directors; (2) all reasonable and necessary documents in amendment of the Master Deed and all plans to be filed therewith are provided in advance to the satisfaction of the Directors, such amendment requiring no consents other than the Directors'; (3) all necessary and proper permits and/or approvals are obtained from appropriate governmental authorities; and (4) all conditions as may be reasonably imposed by the Directors are satisfied. Notwithstanding the foregoing, the Declarant may establish a standard for the installation of an awning, or awnings over the balconies and, subject to the foregoing provisions with regard to approval of changes within a Unit, a Unit Owner may install such an awning. The installation of such an awning by the Declarant shall constitute the establishment of such standard.

E. Customary household pets may be kept in any Unit pursuant to the restrictions and regulations contained in the By-Laws; provided, however, (1) that no such pets are raised or bred for commercial and/or remunerative purposes, (2) are in no greater number than the Directors may allow so as to maintain appropriate peaceful enjoyment of the Condominium by all residents thereat, (3) in compliance with all applicable governmental laws, ordinances, rules and regulations, and (4) such that said pets do not create a nuisance as the Directors may in their reasonable discretion determine;

F. No Unit shall be used or maintained in a manner contrary to or inconsistent with the provisions of this Master Deed, the By-Laws, the applicable Rules and Regulations promulgated pursuant thereto, or Chapter 183A, and all use shall be conducted in a manner consistent with the comfort and convenience of the occupants of the other Units;

G. No Unit shall be maintained at an ambient temperature of less than fifty-five degrees (55°) Fahrenheit during such time or times as is necessary to prevent the freezing of any and all pipes within the Buildings;

H. No nuisance shall be allowed in or upon the Condominium nor shall any use or practice be allowed which interferes with the peaceful possession or proper use of the Condominium by its residents;

I. No unlawful, improper, or offensive use shall be made of the Condominium, or any part thereof, and all valid laws, ordinances, rules and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any Unit shall be eliminated by and at the sole expense of the Owner of said Unit and those relating to the Common Elements shall be eliminated by the Directors, except as may be otherwise provided for herein or in the By-Laws;

J. No use of the Common Elements shall be made save for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units;

K. No Unit Owner shall place or cause to be placed in or on any of the Common Elements, other than the Limited Common Elements to which such Unit Owner has exclusive rights, any furniture, packages, or objects of any kind, nor shall any such area be utilized for other than its intended purpose. No public hall, corridor, vestibule, passageway or stairway shall be used for any

purpose other than normal transit there through or such other purposes as the Directors may designate; and

L. No Unit, or other area to which a Unit Owner has exclusive rights, shall be maintained or used in such a manner as to detract from the value of the other Units or the Condominium as a whole. Balconies shall be utilized solely for purposes normally associated with such an amenity.

M. Parking facilities shall be utilized solely for the parking of registered, operating, private passenger motor vehicles, which fit within such facility without alteration thereto. No vehicles used for commercial purposes, recreational vehicles, or boats shall be parked in any parking facility. Nor shall such facilities be utilized for storage purposes; provided, however, that a portion of an indoor parking space adjacent to a wall may be enclosed and used for storage, so long as a standard size passenger vehicle can still fit within the space, or an entire indoor parking space may be so enclosed and utilized, such enclosures to be first approved by the Directors as to design, materials and location. Motorcycles may be parked in a parking facility upon the written consent of the Board of Directors, which consent may be revoked at any time should the same be operated in violation of such conditions as are imposed with regard to noise and/or the disturbance of the other residents or if the operation of the subject motorcycle otherwise causes undue disturbance as the Board may in its sole discretion determine. The granting of such consent shall be in the sole discretion of the Board of Directors, taking into account such things as the type, size and mufflering of the subject motorcycle and the number of motorcycles already permitted at the Condominium.

N. No Unit Owner shall alter the construction of the dividing walls between Units, which is a so-called double studded wall with a one and one-half inch air space. Each such wall is separate, insulated and sheathed in two layers of five-

eights inch (5/8") sheet rock. Nor shall any Unit Owner remove, in whole or in part, or take any action which will in any manner negatively effect the efficacy of the floor/ceiling sound proofing assembly which is to be comprised of the finish floor (wood, tile, carpet, etc.); three-quarter inch (3/4") "Gypcrete"; one-quarter inch (1/4") "Acoustimat"; concrete subfloor; vibration isolation hanger; glass fiber bat installation; metal ceiling suspension system; and one-half inch or five-eighths inch (1/2" or 5/8") gypsum ceiling without replacing the same with a sound attenuating system which achieves a minimum sound transmission class (STC) rating of 60 or higher and an impact isolation class (IIC) rating of 60 or higher, the floor assembly itself having to have a STC and a ICC of at least 51.

The foregoing restrictions shall be for the benefit of the Unit Owners, occupants and the Association, and may be administered on behalf of the Unit Owners and occupants by the Directors. These restrictions shall, insofar as permitted by law, be perpetual, and to that end they may be extended at such time or times and in such manner as permitted or required by law for the continued enforceability thereof. The failure of any Unit Owner, or person occupying a Unit, to comply with said restrictions will give rise to a cause of action to the Association, and to any aggrieved Unit Owner, for the recovery of damages, or for injunctive relief, or both.

13. Rights Reserved to the Declarant. The Declarant reserves the right to itself, and its successors and assigns, the following rights with respect to the development and marketing of the Condominium and the sale of its Units.

A. The Condominium shall be developed in two primary Phases. Phase I shall involve the development of Buildings 6, 7, 8 and 9 shown on the Site Plans into residential Units and related improvements, and shall be developed in sub-phases comprised of such number of said Buildings as the Declarant may determine. Phase IA, a sub-phase, shall involve the development of Buildings 8

and 9. Amenities, which are intended to include items such as an indoor pool, Jacuzzi, exercise room, dining facility, craft studios, library, game room, media room, sun deck and finish landscaping are planned for Phase II, which may also be developed in multiple sub-phases. Though the Declarant intends to construct these amenities, as well as the Phase II residential Units, nothing herein shall constitute an obligation to construct any particular amenity or add additional residential Units beyond Phase IA and its related improvements.

B. In order to provide purchasers of Units in Phase I with flexibility in choosing the size of their Unit, the Buildings comprising Phase I – to wit: Building 6, 7, 8 and 9 – shall not be divided into a set number and configuration of Units. Rather, purchasers shall, so long as appropriate space remains available, as the Declarant may in its sole discretion determine, be able to chose from differing configurations based upon the Buildings being divided into so-called "bays", which will, effectively, correspond to the windows. As such, Phase IA, Subphase 1 of the Condominium shall consist of two Base Units, one in each Building -- that is, Unit C in Building 8 and Unit D in Building 9 – which shall comprise the space in such Buildings other than Common Areas, and Phase IA, Subphase 2 shall consist of nine (9) residential units and the remainder of Units C and D. The balance of Phase I shall be similarly developed with the Base Units being Unit A in Building 6 and Unit B in Building 7. As Units are purchased and completed Unit A, B, C and/or D, as applicable, shall be subdivided and its percentage interest appropriately reduced. As Units are conveyed the Declarant shall record phasing amendments to reflect the Units added. Such amendments shall make reference to this Section, shall include a revised Attachment B and shall be accompanied by a set of revised Floor Plans showing the Units added. The percentage interests for the created Units shall be set in accordance with Section 7 hereof and Section 5(a) of Chapter 183A.

TAB 17

C. There shall be a maximum of forty-eight (48) Units in Phase I of the Condominium. The project is presently permitted for a maximum of eighty (80) Units. The Declarant reserves the right to seek approval to increase this maximum for the project. Such, however, shall not affect the maximum number of Units in Phase I.

D. The Declarant may undertake the development of Phase II of the Condominium at any time, whether during or after the development of Phase I. Phase II may be, as to the residential Units, developed and marketed in the same manner as Phase I or the Declarant, in its sole discretion, may elect to predetermine the size and configuration of some, or all of the Units.

E. The Declarant reserves the right to amend this Master Deed in connection with the development and construction of the Condominium to alter the description of any Limited Common Element which may be appurtenant to a Unit, the description of any Unit and the features thereof and/or the Common Elements; provided, however, that the description of any existing Unit and its appurtenant Limited Common Elements shall not be altered without the consent of the Unit Owner thereof and their Mortgagee except as herein otherwise provided to correct a scrivener's error. The Declarant likewise reserves the right to amend this Master Deed to add phases, sub-phases, units and improvements, as applicable. For these purposes the Declarant shall have a power, coupled with an interest, to execute such amendment(s) and, to the extent the consent of the Unit Owners and/or Mortgagees is required, the Declarant shall have an irrevocable power of attorney to execute such amendment(s) on their behalf.

F. The Delcarant reserves the right to, in the initial Unit Deed to each Unit or thereafter by separate instrument, assign one or more indoor or outdoor parking spaces as an appurtenance to each Unit. Any parking space not so assigned at the point the Declarant's rights to add Units, Phases, amenities and/or

improvements expires as provided in subsection I of this Section, or the Declarant no longer owns any Unit, whichever later occurs, shall be Common Area unencumbered by this reserved right.

G. The Declarant shall have all rights, licenses and easements necessary and appropriate to developing, constructing, marketing and selling the Condominium and its Units. Without limiting the generality of the foregoing and in furtherance thereof, and in furtherance of the rights provided in this Section, the Declarant reserves unto itself and its agents, servants, employees, independent contractors, workmen, work crews, successors and assigns, the right of access, ingress, and egress over and upon the Land and the Common Areas and Facilities of the Condominium, including that deemed by the Declarant to be necessary for marketing purposes and for the work of construction, reconstruction, rehabilitation, improvement, and other work in progress or contemplated by the Declarant; the right to lay, maintain, repair and replace, construct, and install and connect (or connect with and make use of) all utilities, utility lines, poles, tanks, walls, ducts, conduits, and similar facilities to serve any or all of the Buildings and/or Units and the Common Areas and Facilities, and all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of power, gas, light, master antenna, satellite antenna, cable television, water, air and all sewer and drainage pipes to serve any or all of the Buildings and/or Units and the Common Elements and Facilities; to pass and repass by foot and vehicle over all driveways, roadways, access ways, parking areas and walkways, whether now existing or to be constructed in the future, for all purposes for which driveways, roadways, access ways, parking areas and walkways are commonly used, including the transportation of construction materials, equipment, and personnel for the purposes of construction; to construct Buildings and improvements on the Land, and to engage in all activities necessary or appropriate to accomplish the same, including without limitation the exclusive right to grant to others,

including any public utility or authority, easements for the installation and maintenance of utilities; to store construction materials, equipment, and supplies in those portions of the Common Elements and Facilities not subject to rights of exclusive use appurtenant to any Unit; to restrict (for periods of not more than eight (8) hours at any time during any day) the use by Unit Owners of Common Areas and Facilities to facilitate construction or for purposes of safety (provided that, no Unit Owner shall be denied at least one means of access to his/her/their Unit during such periods of restriction); to leave debris resulting from construction in the Common Areas and Facilities, provided the same do not endanger safety; to reasonably interrupt for brief intervals of time, water, gas, electric, and other utilities and service provided by such utility lines, pipes, tanks, wells, wires, cables, conduits, and septic and drainage lines in order to facilitate construction or in order to facilitate the installation of appliances or fixtures in the Buildings, Units or Common Areas and Facilities without liability for such interruption of service, provided, however, that the Declarant shall use its best efforts to minimize any such interruption of service; to park vehicles used in connection with the construction work or incident thereto in parking areas that have not been assigned to any specific Unit Owner; and, in general, the right to do all things necessary or desirable in order to construct and complete all of the Buildings and/or Units and the Common Elements. Declarant further reserves the right to use any Unit owned by the Declarant for storage or as a model, for display, as an office, for purposes of facilitating sales or leasing of Units in the Condominium, as well as the right to park and use one or more construction and/or marketing trailers or other temporary structure on the Land and to erect and maintain signage in connection therewith.

H. The Declarant reserves the right to use the name Hatter's Point, in connection with the Marina, or to assign the same, and/or to use the name

Hatter's Point in connection with any adjoining or nearby parcel(s) the Declarant may develop.

I. The Declarant's rights to add Units, Phases, amenities and/or improvements to the Condominium shall expire ten (10) years from the date of recording of this Master Deed. Thereupon, the Land, Buildings and improvements shall be unencumbered by the rights reserved to the Declarant in this Section. The foregoing expiration of reserved rights shall not, however, impact the rights granted under the so-called Marina Easement referenced in this Master Deed for the development, construction, maintenance and operation of a Marina and the rights granted thereunder for access to and the use of certain Common Areas and Facilities nor the Declarant's reservation of the right to use the name Hatter's Point in connection with the Marina or other adjoining or nearby land which the Declarant may develop.

J. The Declarant's reserved rights under this Section 13 and elsewhere in this Master Deed including without limitation the rights to add Units, Phases, amenities and/or improvements to the Condominium (the "Reserved Rights") shall be assignable and may be freely pledged and mortgaged by the Declarant. For the purposes of this Master Deed and the By-Laws, "Declarant" shall mean and refer to Amesburyport Corporation, which has executed, delivered and recorded this Master Deed, and to all successors and assigns of said Amesburyport Corporation who come to stand in the same relation as developer of the Condominium and holder of the Reserved Rights as it did. Amesburyport Corporation may transfer by a deed or other instrument of assignment the Declarant's Reserved Rights. Such Reserved Rights shall be deemed development rights as well as an interest in real estate. Any grantee or assignee of the Reserved Rights shall become the developer of the Condominium and be vested with the exclusive benefit of all the Reserved Rights of the Declarant

hereunder upon the recording of a deed or instrument of assignment or transfer of the Reserved Rights.

14. Title to Units. Title to Units may be taken in the name of an individual or in the name of two (2) or more individuals, as tenants in common, joint tenants, or tenants by the entirety, or in the name of a corporation or partnership (limited or general), or in the name of a fiduciary.

15. Combining Contiguous Units. Notwithstanding anything herein otherwise provided, a Unit Owner who owns two or more contiguous (vertically or horizontally) Units may construct openings between said Units in order to physically combine such Units. All work performed in creating such openings shall be done in a good and workmanlike manner, in compliance with all applicable laws, after obtaining all required permits and obtaining written approval of plans and specifications for the proposed work from the Directors prior to the commencement of such work upon such conditions as the Directors may impose. No work shall be performed which will materially affect the structural integrity of the Condominium, and the Unit Owner performing such work shall indemnify and hold harmless the Association and all Unit Owners from any loss, claim or liability which they may suffer or incur as a result of such work. Upon completion, the combined Units shall be treated as one Unit for all purposes and shall have a percentage interest equaling that of the two combined Units, in furtherance whereof an amendment to this Master Deed shall be prepared, at the subject Unit Owners' expense, and recorded with the Essex County Southern District Registry of Deeds. Units so combined may thereafter be restored as separate Units in the original configuration as here provided.

16. Units Subject to Master Deed and Condominium By-Laws. All present and future Unit Owners, tenants, visitors, servants and occupants of Units shall be subject to, and shall comply with, the provisions of this Master Deed, the By-Laws, and the Rules and Regulations promulgated pursuant thereto, as they may be amended from time to time, and the items of record affecting title to the Property. The acceptance

of a deed or conveyance of a Unit or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Master Deed, the By-Laws, and the Rules and Regulations promulgated pursuant thereto, as they may be amended from time to time, and the said items of record affecting title to the Property, are accepted and ratified by such Unit Owner, tenant, visitor, servant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. A violation of the provisions of this Master Deed, the Unit Deed, the By-Laws, or the Rules and Regulations promulgated pursuant thereto by any such person shall be deemed a substantial violation of the duties and obligations of a Unit Owner. The Declarant, its successors and assigns, shall, except as herein and the By-Laws provided, have the same rights and obligations as ant other Unit Owner with respect to established, but unsold units.

17. Sale or Lease of Units. A Unit Owner may, subject to the restrictions of this Master Deed and the By-Laws, assign, lease, sell or otherwise transfer all of his interest in his Unit, together with: (i) the undivided interest in the Common Areas and Facilities appurtenant thereto; (ii) the exclusive right of such Unit Owner to use the Limited Common Elements to which said Unit Owner has an exclusive right of use as an appurtenance to his unit; (iii) the interest of such Unit Owner in any Units theretofore acquired by the Association or its designee, on behalf of all Unit Owners, or the proceeds of the sale or lease thereof, if any; and (iv) the interest of such Unit Owner in any other assets of the Condominium - (i), (ii), (iii) and (iv) above hereinafter collectively called the "Appurtenant Interests" - in the manner set forth below:

A. Subjection to Condominium Documents. Any deed to a purchaser, lease to a lessee, or mortgage to a secured party, shall expressly provide, or in the absence of such be deemed to provide, that the acceptance thereof shall constitute an assumption of the provisions of the Master Deed, the By-Laws, and

the Rules and Regulations promulgated thereunder, as the same may be amended from time to time. Any such lease shall be consistent with the restrictions contained in this Master Deed and shall be deemed to provide that the Directors shall have the power to terminate such lease and/or to bring summary process proceedings to evict the tenant in the name of the landlord (i) in the event of default by the tenant in the performance of such lease, (ii) in the event of the creation, continuance or sufferance of a nuisance in or about the premises, or (iii) in the event of a violation of the provisions of this Master Deed, the By-Laws and/or the Rules and Regulations promulgated thereunder.

B. No Partition or Severance. No Unit Owner shall execute any deed, lease, mortgage or other instrument conveying or mortgaging title to his Unit without including therein the Appurtenant Interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, lease, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, leased, transferred or otherwise disposed of, except as part of a sale, lease, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, lease, transfer or other disposition of such part of the Appurtenant Interests of all Units.

Notwithstanding the foregoing, a Unit Owner may, upon written notice to the Directors, swap the indoor assigned parking space with another Unit Owner by an appropriate instruments recorded with the Essex County Southern District Registry of Deeds, whereupon the swapped indoor assigned parking spaces shall be appurtenant to the respective Units.

18. Amendment of Master Deed. This Master Deed may be amended upon the written consent of the Unit Owners holding at least seventy-five percent (75%) of the Undivided Interest herein, by an instrument signed and acknowledged by a majority of the Directors of the Association, and duly recorded with the Essex Southern District Registry of Deeds, provided, however, that:

A. All consents necessary thereto have been obtained within six (6) months of the date of signature of the first consent;

a. Any consent once given during this period may not be revoked.

b. In such case as a Unit is sold prior to the conclusion of this period, such consent shall bind the purchasing Unit Owner.

B. No instrument of amendment which alters the dimensions of any Unit shall be of any force or effect unless the same has been signed by the Owner of the Unit so altered and the same has been assented to in writing by all holders of all mortgages of record on said Unit;

C. No instrument of amendment which alters the Undivided Interest of any Unit shall be of any force or effect unless the same is consented to by the Owners of such Unit and the same has been assented to in writing by all holders of all mortgages of record on such Unit;

D. No instrument of amendment which alters the percentage of Undivided Interest of all Units shall have any force or effect unless consented to by all Unit Owners and their respective mortgagees;

E. No instrument of amendment directly affecting any Unit upon which there is a mortgage of record shall be of any force or effect unless the same has been assented to in writing by the holder of such mortgage (or mortgages if more than one);

F. No instrument of amendment affecting a Unit which impairs the security of a mortgage of record upon such Unit shall be effective without the assent of all holders of such mortgages of record;

G. No instrument of amendment which alters this Master Deed in any manner which would render it contrary to or inconsistent with any requirements or provisions of Chapter 183A shall be of any force or effect; and

H. No instrument of amendment which alters or violates any of the rights reserved to the Declarant herein, or in the By-Laws reserved, shall be of any force or effect unless the same has been assented to in writing by the Declarant.

The foregoing not withstanding, the Directors shall have the power coupled with the interest to, by an instrument signed by a majority of their number and duly recorded with the Essex County Southern District Registry of Deeds, amend this Master Deed to (1) correct any scriveners and/or technical error made herein, or (2) to make this Master Deed comply with Massachusetts General Laws, Chapter 183A, and other applicable state or federal laws or regulations, or (3) to comply with rules or regulations promulgated by the Federal National Mortgage Association (FNMA) and/or the Federal Home Loan Mortgage Corporation (FHLMC), and/or other so-called secondary mortgage market agencies; or to satisfy applicable insurance requirements. This power may be exercised not only to add additional provisions, but also to delete theretofore required provisions should such no longer be required.

And, notwithstanding the foregoing, Section 12.B hereof may be amended as provided therein.

19. FNMA/FHLMC Provisions. Notwithstanding anything in this Master Deed, the By-Laws or the Rules and Regulations promulgated pursuant thereto to the contrary, but in all events subject to any greater requirement contained in Chapter 183A, the following provisions shall govern and be applicable insofar and so long as the same are necessary to qualify mortgages on Units for sale to FNMA or FHLMC and

apply for the protection of them as holders of the first mortgages of record (hereinafter "First Mortgagees") with respect to the Units and shall be enforceable by any such First Mortgagee:

A. In the event that the Unit Owners shall amend the Master Deed or the By-Laws to include therein any right of first refusal in connection with the sale of a Unit, such right of first refusal shall not impair the rights of a First Mortgagee to:

a. foreclose or take title to a Unit pursuant to the remedies provided in its mortgage; or

b. accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or

c. sell or lease a Unit acquired by the First Mortgagee.

B. Any party who takes title to a Unit through foreclosure sale duly conducted by a First Mortgagee shall be exempt from any such right of first refusal adopted by the Unit Owners and incorporated in this Master Deed or the By-Laws;

C. Except as may be otherwise provided by applicable law, any First Mortgagee who obtains title to a Unit by foreclosure or pursuant to any other remedies provided in its mortgage or by law shall not be liable for such Unit's unpaid Common Expenses which accrued prior to the acquisition of title to such Unit by such First Mortgagee;

D. Except as provided by statute, in case of condemnation or substantial loss to the Units and/or Common Elements of the Condominium, in addition to any requirement of Paragraphs 18 and/or 25 of this Master Deed unless sixty-seven percent (67%) of the First Mortgagees (based upon one vote for each First Mortgagee), have given their prior written approval, the Unit Owners and the Directors of the Association shall not be entitled to:

a. by any act or omission, seek to abandon or terminate the Condominium; or

b. change the undivided interest or obligations of any individual Unit for the purpose of:

(i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or

(ii) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities; or

c. partition or subdivide any Unit; or

d. by any act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and Facilities of the Condominium, provided that the granting of easements for utilities or for other purposes consistent with the intended use of the Common Areas and Facilities and/or permitted by Chapter 183A shall not be deemed an action for which prior consent of the First Mortgagees shall be required pursuant to this clause nor shall the designation of limited common areas as provided for in Chapter 183A; or

e. use hazard insurance proceeds on account of losses to either the Units or the Common Areas and Facilities of the Condominium for other than the repair, replacement or reconstruction thereof.

E. Consistent with the provisions of Chapter 183A, all taxes, assessments and charges which may become liens prior to a first mortgage under the laws of the Commonwealth of Massachusetts shall relate only to the individual Units and not to the Condominium as a whole;

F. In no event shall any provision of this Master Deed or the By-Laws give a Unit Owner or any other party priority over any rights of a First Mortgagee pursuant to its mortgage in the case of a distribution to such Unit Owner of

insurance proceeds or condemnation awards for losses to or for a taking of such Unit and/or the Common Areas and Facilities;

G. A First Mortgagee upon request made to the Directors, or as provided by law, shall be entitled to:

a. written notification from the Directors of any default by its borrower who is an owner of a Unit with respect to any obligation of such borrower under this Master Deed or the provisions of the By-Laws which is not cured within sixty (60) days;

b. inspect the books and records of the Association at all reasonable times;

c. receive an annual financial statement of the Association within one hundred twenty (120) days following the end of any fiscal year of the Association;

d. receive timely written notification of all meetings of the Association and be permitted to designate a representative to attend all such meetings;

e. receive timely written notification from the Directors of any damage by fire or other casualty to the Unit upon which the First Mortgagee holds a first mortgage or any proposed taking by condemnation or eminent domain of said Unit or the Common Areas and Facilities of the Condominium;

f. receive timely written notification of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

g. receive timely notice of any proposed action which requires the consent of a specified percentage of eligible mortgage holders as specified in this Master Deed, the By-Laws, and the Rules and Regulations promulgated pursuant thereto;

H. Any agreement for professional management of the Condominium shall provide for termination by either party without cause and without payment of a termination fee on no more than ninety (90) days notice. Any agreement for professional management with the Declarant, or any entity affiliated with the Declarant, shall be terminable by the Directors at any time subsequent to the transfer of control to the Unit Owners.

I. In addition to all other requirements of this Master Deed or the By-Laws, the prior written consent of fifty-one percent (51%) of the First Mortgagees holding mortgages on Units who have requested notification of the consideration of material amendments and Unit Owners entitled to at least sixty-seven percent (67%) of the Undivided Interest herein shall be required for the following:

a. the abandonment of the Condominium status or the Condominium except for abandonment provided by statute in case of substantial loss to the Units and Common Areas and Facilities;

b. the partition or subdivision of any Unit or of the Common Areas and Facilities;

c. a change in the Undivided Interest of any individual Unit;

d. to add or amend any material provisions of the Master Deed or the By-Laws which establish, provide for, govern or regulate any of the following:

(i) Voting;

(ii) Assessments, assessment liens or subordination of such liens;

(iii) Reserves for maintenance, repair and replacement of the common areas;

(iv) Insurance or Fidelity Bonds;

(v) Rights to use of the Common Areas and Facilities;

(vi) Responsibility for maintenance and repair of the several portions of the Property;

(vii) Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the property;

(viii) Boundaries of any Unit;

(ix) The interests in the Common Areas and Facilities;

(x) Convertibility of Units into Common Areas or of Common Areas into Units;

(xi) Leasing of Units;

(xii) Imposition of any right of first refusal or similar restriction on the right of a Unit estate owner to sell, transfer, or otherwise convey his/her/their Unit estate;

(xiii) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on Units;

Any First Mortgagee that does not deliver or post to the Directors a negative response within thirty (30) days of a written request by the Directors for approval of any addition or amendment pursuant to this Paragraph sent certified mail return receipt requested shall be deemed to have consented to the addition or change set forth in such request. An affidavit by the Directors making reference to this Paragraph, when recorded at the Essex County Southern District Registry of Deeds, shall be conclusive as to the facts therein set forth as to all parties and may be relied upon pursuant to the provisions of the By-Laws.

It is intended that the provisions of this Master Deed and the By-Laws shall, as may be necessary, comply with the requirements of the Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) with

respect to Condominium loans, and except as may otherwise specifically be provided in this Master Deed, or the By-Laws, all questions with respect thereto shall be resolved consistent with that intention.

The provisions of this Paragraph 19 may not be amended or rescinded without the written consent of all First Mortgagees with the exception of those amendments necessary to keep the Master Deed or Condominium Association in compliance with the requirements of Chapter 183A, other state or federal law, rule and regulation, or of FNMA and FHLMC or other secondary mortgage requirements as in Paragraph 18 provided, which consent shall appear on the instrument of amendment as such instrument is duly recorded with the Essex County Southern District Registry of Deeds.

20. Conflicting Provisions. If any provisions of this Master Deed shall conflict with Chapter 183A, as amended, or if any provision of this Master Deed conflicts with any other provision thereof or with any provision of the By-Laws, then the following rules of construction shall be used:

A. In the event of a conflict between the Master Deed and said Chapter 183A, as amended, the provisions of Chapter 183A shall control;

B. In the event of a conflict between this Master Deed and the By-Laws, this Master Deed shall control.

C. In the event of a conflict between any numerical voting requirements for action set forth in Paragraph 19 hereof and any other such requirements for action set forth in any provision of this Master Deed or the By-Laws, the provisions requiring the greater percentage or fraction for action to be taken or avoided shall control; and

D. In the event of any conflict other than as set forth in subparagraph C above between the provisions of Paragraph 19 hereof and any other provisions of this Master Deed or the By-Laws, the provisions of Paragraph 19 shall control.

21. Invalidity. The invalidity of any provision of this Master Deed shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Master Deed and, in such event, all of the other provisions of this Master Deed shall continue in full force and effect as if such invalid provision had never been included herein.

22. Waiver. No provision contained in this Master Deed shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

23. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Master Deed nor the intent of any provision hereof. Terms of gender shall be interchangeable, as shall be terms of reflecting the singular and plural.

24. Chapter 183A. The Units and Common Areas and Facilities, and the Unit Owners and Directors, shall have the benefit of, and be subject to, the provisions of Chapter 183A, in effect upon the date of execution of this Master Deed and any future amendments thereto. In all respects not specified in this Master Deed or in the By-Laws, they shall be governed by the provisions of Chapter 183A in their relation to each other and to the Condominium established hereby, including, without limitation, provisions thereof with respect to removal of the Condominium premises or any portion thereof from the provisions of Chapter 183A. All terms and expressions herein used which are defined in Section 1 of Chapter 183A shall have the same meanings herein unless the context otherwise requires.

25. Duration. The Condominium hereby created shall terminate only upon the removal of the same from the provisions of said Chapter 183A in accordance with the procedure therefor set forth in Section 19 of said Chapter, or any successor to such section. The Unit Owners may remove all or a portion of the Condominium from the operation of Chapter 183A of the General Laws as amended from time to time at any

annual or special meeting of the Unit Owners by the affirmative vote of ninety percent (90%) in interest of the Unit Owners; provided that notice of such removal is given in the notice of the meeting and provided, further, that the holders of mortgages of record on Units which have sixty-seven percent (67%) or more of the Undivided Interest in the Common Areas and Facilities consent to such removal by written instruments duly recorded with the Essex County Southern District Registry.

Notwithstanding the foregoing, the Unit Owners may not remove all or any portion of the Condominium from the provisions of said Chapter 183A, or terminate the Condominium during the period that the Declarant, its successors and assigns, holds any development and/or phasing rights as provided herein, as said period may be duly extended, unless such is consented to by the Declarant, its successors and assigns, and any lender of the Declarant, its successors and assigns, holding a secured interest on any such rights.

It is confirmed by the Declarant, and (by their acceptance and recording of their unit deeds) all Unit Owners (and their mortgagees) that the Reserved Rights are a real estate interest in the Condominium, and that the Unit Owner's interests in and to the common areas and facilities of the Condominium are and shall be at all times subject to the Reserved Rights; and in the event the Condominium is terminated or otherwise removed from the provisions of said Chapter 183A as a result of a casualty or for any other reason whatsoever, or if there shall be proceeds of any insurance or any awards on account of any taking to be distributed, prior to the date that the Reserved Rights expire pursuant to the terms hereof, then the Declarant, or its successors and assigns, as the holder of the Reserved Rights, shall be entitled, prior to the Directors or any Unit Owner (or their mortgagees) being entitled to receive any proceeds from the termination of the Condominium or removal of the Property from condominium status (including, without limitation, the proceeds of any partition or other sale), and prior to any Unit Owner (or their mortgages) being entitled to any proceeds of any insurance or

any awards on account of any taking, to receive all such proceeds to the extent of the fair market value at such time of (or if the Condominium is not terminated, to the extent of the loss sustained by the Declarant with respect to): (a) the Declarant's Reserved Rights, including the right to add buildings and improvements to the Condominium as additional phases (calculated by determining the profits which the Declarant would have earned, but for such termination or removal, in connection with the development of such additional phases) and (b) the fair market value of all building and improvements on the Property which have not been added to the Condominium.

Witness the execution hereof under seal this 15th day of July, 2002.

AMESBURYPORT CORPORATION

By: _____
William H. Sullivan, President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS. July 15, 2002

Then personally appeared before me William H. Sullivan, President and Treasurer of the Amesburyport Corporation, and attested to the foregoing as his free act and deed on behalf of the Amesburyport Corporation.,

_____
Seth Emmer, Notary Public
My commission expires: 3/1/07

HATTER'S POINT CONDOMINIUM

ATTACHMENT A TO THE MASTER DEED

DESCRIPTION OF LAND

The land comprising the Condominium is that (those) certain parcel(s) of land containing in excess of 5 acres and described as follows:

NORTHWESTERLY by the southeasterly line of Merrimac Street nine hundred sixty-four and 64/100 (964.64) feet;
NORTHEASTERLY by land now or formerly of Raymond F. Smith et al measuring on the upland about one hundred seventy-five (175) feet;
SOUTHEASTERLY by Merrimac River; and
SOUTHWESTERLY by land nor or formerly of Edith F. Smith measuring on the upland about twenty (20) feet.

Being shown as Lots #3 and #4, Sheet 2, on said Plan 26500-A and all of said bounds, except the water line, are determined by the Court to be located as shown on said Plan.

Said Lots #3 and #4 are subject to, and have the benefit of, two licenses granted by the Commonwealth of Massachusetts, one No. 3349 to the Merrimac Hat Company, dated February 15, 1909, duly recorded in Book 1963, Page 474, and other No. 4038 to the Bailey Company, Inc., dated January 13, 1958, duly recorded in Book 4436, Page 50 in said Registry.

Part of said Lots #3 and #4 are subject to rights of way and have the benefit of an agreement as described in an Easement from Maple Wood Products Co., Inc. to the inhabitants of the Town of Amesbury, dated July 12, 1976, and filed as Document 160649 in said Registry, and shown on plan filed with said document.

All of said boundaries, except the water line, are determined by the Court to be located as shown upon the plan numbered 26500-A, filed with original Certificate of Title 28648 in said Registry, the same being compiled from a plan drawn by Clinton F. Goodwin, Engineer, dated November 1955 and additional data on file in the Land Registration Office, all as modified and approved by the Court, and the above described land is shown as Lots #3 and #4, sheet 2, on said Plan numbered 26500-A.

Said land includes all land under the Merrimac River to the mean low water line and is subject to and/or with the benefit of the following:

1. Two licenses granted by the Commonwealth of Massachusetts, dated February 15, 1909, recorded with the Essex County Southern District Registry of Deeds, Book 1963, Page 474 and dated January 13, 1958, recorded with said Deeds, Book 4436, Page 50.

2. Rights and a right of way set forth in an Agreement described in an Easement to the Inhabitants of the Town of Amesbury, dated July 12, 1976, filed with the Essex County Land Registration District of the Land Court as Document No. 160649.

3. Public Rights legally existing in and over so much of the premises as lies below in the mean high water mark of the Merrimac River.

4. Decision by the Town of Amesbury Zoning Board of Appeals, dated May 19, 1977, filed with said Registry District as Document No. 161610.

5. Order of Conditions by the Amesbury Conservation Commission, dated January 28, 1986, filed with said Registry District as Document No. 208661.

6. Notice of Variance by the Town of Amesbury Zoning Board of Appeals, dated June 9, 1986, filed with said Registry District as Document No. 231135.

7. Notice of Variance by the Town of Amesbury Zoning Board of Appeals, dated November 20, 1987, filed with said Registry District as Document No. 231136.

8. Appeal Certificate and Decision by the Town of Amesbury Zoning Board of Appeals filed with said Registry District as Document Nos. 231137 and 231138.

9. Order of Conditions by the Amesbury Conservation Commission, filed with said Registry District as Document No. 345040.

10. Order of Conditions by the Town of Amesbury Conservation Commission, filed with said Registry District as Document No. 358266.

11. A License issued by the Department of Environmental Protection, Commonwealth of Massachusetts dated October 15, 1999, and recorded with said Registry in Book 16088, Page 48.

12. An Easement granted to Massachusetts Electric Company dated January 11, 2002, and filed with said Registry District as Document 394265.

13. An Amendment to Sewer Easement dated April 26, 2002 and recorded simultaneously herewith, but prior hereto, amending the Easement referred to in item number 2 above.

TAB 17

14. A Storm Drain Easement granted to The Town of Amesbury dated April 16, 2002, and recorded simultaneously herewith, but prior hereto.

15. A Public Access Easement dated April 26, 2002, and recorded simultaneously herewith, but prior hereto.

16. A Marina Easement (the "Marina Easement") dated April 26, 2002 and recorded simultaneously herewith, but prior hereto.

HATTER'S POINT CONDOMINIUM

ATTACHMENT B TO THE MASTER DEED

DESCRIPTION OF UNITS AND UNDIVIDED INTEREST

PHASE IA, SUBPHASES 1 and 2

UNIT NUMBER	BUILDING	ROOMS	APPROX SQ. FT.	UNDIVIDED INTEREST
801	8	F, K, DR, LR, D, MBR, BR, 2B, W/D, MR C's	1713 sq.ft.	5.774
803	8	K, DR, LR, 2D, MBR, BR, 2B, W/D, MR C's	1681 sq.ft.	5.666
806	8	F, K, DR, LR, MBR, 2½B, W/D, MR, C's	1261 sq.ft.	4.250
C	8	OPEN	8140 sq.ft.	27.434
901	9	F, K, DR, LR, 2D, MBR, 2B, W/D, MR, C's	1470 sq.ft.	4.955
903	9	F, K, DR, LR, D, BR, 2B, MR, C's	1105 sq.ft.	3.724
904	9	F, K, DR, LR, D, MBR, BR, 2B, W/D, MR C's	1227 sq.ft.	4.136

906	9	F, K, DR, LR, D, MBR, 2B, W/D, MR, C's	1233 sq.ft.	4.156
909	9	F, K, DR, LR, D, MBR, 2BR, 3½B, W/D, MR C's	2730 sq.ft.	9.201
910	9	F, K, LR/DR, MBR, BR, 2½B, W/D, MR C's	1309 sq.ft.	4.412
D	9	OPEN	7801 sq.ft.	26.292
				100.000

ROOM SYMBOLS:

F – Foyer
K – Kitchen
DR – Dining Room
LR – Living Room
D – Den
MBR – Master Bedroom
BR – Bedroom
B – Bath
SM – Storage Mezzanine
C – Closet
W/D – Washer/DryerRoom
MR – Mechanical Room

All Units have access to the corridor immediately adjacent to the Unit which leads to the main entry of the Building and the balcony immediately adjoining the Unit.

HATTER'S POINT CONDOMINIUM

ATTACHMENT C TO THE MASTER DEED

AGE RESTRICTION REQUIREMENT AND POLICY TO ENSURE ADHERENCE WITH RESTRICTION

HATTER'S POINT CONDOMINIUM has been created with the purpose of creating a community whereby all of the Units are to be occupied by at least one person who is 55 years of age or older. In order to achieve this purpose and in order to comply with the Housing For Older Persons Act of 1995, the following restrictions, regulations and policies shall apply to all residents and prospective residents:

1. All residents and prospective residents shall be required to provide to the Directors and/or Declarant evidence of complying with the age restriction. To that end, the Directors and/or the Declarant shall have the authority to conduct an age verification of all occupants in each unit from time to time and all occupants shall be required to provide the information required by the age verification.

2. The verification shall be in a form adopted from time to time by the Directors. The verification may contain requests for information including, but not limited to, the following in order to prove age verification:

(a) Date of birth for any occupant.

(b) Dates of birth for each Unit Owner with back-up information.

(c) Copies of driver's license, voter registration card, birth certificate and/or medicare card or other proof of age and residence for each occupant and each Unit Owner.

(d) The date the occupants first began to reside in the Unit.

(e) The identity and location of the specific Unit.

(f) The signatures of the occupants for additional verification of the accuracy of the verification information.

3. The initial form of verification is attached hereto but may be modified from time to time by the Directors and/or Declarant. No person shall occupy a Unit at the condominium without obtaining from the Directors and filing with the Registry of Deeds a Certificate of Approved Occupancy which form shall state the name of the approved occupant or that the subject Unit is one of the Units exempt from compliance.

4. The Directors may rescind approval for occupancy if they determine that any information provided to the Trustees by the occupant was false or inaccurate.

5. Violation of Section 12(B) of the Master Deed or this Schedule shall be considered to constitute irreparable harm to the Association and other Owners and residents and, therefore, the Directors and any Unit Owner shall be entitled to obtain injunctive relief from a Court of competent jurisdiction for any such violation.

6. If any Unit Owner and/or occupant violates Section 12.B of the Master Deed or this Schedule, said Unit Owners and/or occupants shall be subject to a fine of $100.00 per violation and $25.00 for each day it continues after notice and shall be responsible for all costs and attorneys' fees incurred related to enforcing the restriction. Said fines, costs and attorneys' fees shall constitute a lien against the unit as provided for in Massachusetts General Laws Chapter 183A.

7. The Directors shall have the power to enforce any violation of the age restriction by Court action or otherwise against the Unit Owners and/or occupants involved and all costs incurred in said action, including but not limited to, reasonably attorney's fees and costs shall be the responsibility of the subject Unit Owner and shall constitute a lien against the Unit as provided for in Massachusetts General Laws Chapter 183A.

8. Notwithstanding the requirement that at least one occupant of each Unit be 55 years of age or older, if a Unit is occupied by a couple, one who is 55 years of age or older and one who is not 55 years of age or older, and the older occupant dies, or is otherwise unable to continue to occupy the Unit due to illness, disability or other infirmity, the Unit may continue to be occupied by the younger occupant provided that such occupancy does not result in less than eighty percent (80%) of the Units being occupied by at least one individual who is 55 years of age or older. In such cases the remaining occupant shall, if requested, provided reasonable documentation to the Directors to establish relevant facts.

9. Except as provided for in paragraph 8 above, in the event of the death of a qualifying occupant, one may inherit the Unit but may not occupy the Unit unless one occupant is 55 years of age or older.

10. The Directors may establish additional requirements to preserve the community as intended and to ensure compliance with the Housing For Older Persons Act Of 1995 and Massachusetts General Laws Chapter 151B and any regulation promulgated pursuant to either law.

HATTER'S POINT CONDOMINIUM

Age Requirement Verification

Unit #: _____

Address: _____

Telephone Number: _____

Names of All Proposed Occupants: _____

Dates of Birth of Each Proposed Occupant: _____

Social Security Numbers of all Occupants: _____

A Copy of a Driver's License is required to be attached hereto for all proposed Occupants.

Proposed Occupancy Date: _____

I/we, the undersigned, being the proposed Owners and Occupants of the above-captioned Unit, hereby certify that we have read the condominium documents and the rules and regulations and agree to be bound by the terms thereof, including, but not limited to, the age and occupancy restrictions set forth in Section 12 of the Master Deed and Attachment C to the Master Deed.

Executed under seal this _____ day of _____, 200__.

_____ Print Name: _____
Signature-Owner

_____ Print Name: _____
Signature-Owner

_____ Print Name: _____
Signature-Owner

_____ Print Name: _____
Signature-Owner

BAILEY'S POND - PERMIT HISTORY

1. October 25, 1994 – See attached documents
   a. Transition Permit issued to Merrimack Land Corporation – Permit #83075
   b. Permit required a Response Action Outcome Statement
2. October 21, 2002 – See attached documents
   a. Extension and Transfer Application
   b. Transferee – Parking for Amesbury, LLC
   c. Application reports that remedial action is in progress
3. February 28, 2003 – See attached documents
   a. Decision Permitting Extension and Transfer
   b. Expiration Date: May 29, 2005
4. December 26, 2005 – See attached documents
   a. Ecological Risk Assessment required
   b. Expiration Date: May 29, 2007
5. Present Status
   a. A licensed site professional (LSP) has been retained to complete the Response Action Outcome Statement.
   b. The property's status has been re-assigned to the lowest priority within the Mass. DEP system as of January, 2009.
   c. The permit status for the property has been extended to January 16, 2010.
   d. It is anticipated, but not guaranteed, that the Response Action Outcome Statement will be completed and submitted to the Massachusetts Department of Environmental Protection by September 30, 2009.
   e. The expectation is that upon completion and submission of the Response Action Outcome Statement, no further action will be required.

DISCLAIMER

THE PROVIDENT BANK AND ITS AGENTS (INCLUDING THE AUCTIONEER), ATTORNEYS, REPRESENTATIVES, DIRECTORS, OFFICER OR EMPLOYEES, MAKE NO REPRESENTATION OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS SUMMARY OR IN THE ATTACHED DOCUMENT COPIES. YOU ARE NOT AUTHORIZED TO RELY ON THIS INFORMATION FOR ANY PURPOSE.

YOU SHOULD MAKE YOUR OWN INQUIRY AS TO THE MATTERS DISCLOSED OR REFERRED TO HEREIN. BY ENTERING A BID ON THE PROPERTY YOU ARE DEEMED TO HAVE ACCEPTED, AND AGREE TO BE BOUND BY, THIS DISCLAIMER.

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Metropolitan Boston – Northeast Regional Office

MITT ROMNEY
Governor

KERRY HEALEY
Lieutenant Governor

ELLEN ROY HERZFELDER
Secretary

EDWARD P. KUNCE
Acting Commissioner

FEB 28 2003

Amesbury for Parking, LLC
c/o Swift Sprinkler Systems
P.O. Box 3007
Peabody, MA 01961-3007

Attn: Mr. C. Daniel Swift

RE: **Amesbury -**
Bailey Pond Parcel
77 Merrimac Street
RTN 3-0204
Transmittal Number: W032401
Permit Number: 83075
Permit Category: BWSC 20/30

DECISION TO GRANT PERMIT EXTENSION AND PERMIT TRANSFER

Dear Mr. Swift:

The Department of Environmental Protection (the Department) has concluded its review of the above-referenced permit application. Using the criteria contained in the Massachusetts Contingency Plan (310 CMR 40.0730), the Department is granting the Extension for the Tier IB Permit # 83075 and approving the Transfer of the extended permit from Merrimac Land Corporation to Amesbury for Parking, LLC. Attached please find two (2) copies of the permit for your reference and acceptance.

You must notify the Department of your decision to accept or not accept the permit. To accept the permit, both copies of the permit's Acceptance Statement and the Certification of Submittal, on Page 5, must be signed and one copy of the complete permit with all original signatures must be returned to the Department within 30 days of the date of issuance, unless a request for an adjudicatory hearing is filed in accordance with 310 CMR 40.0770.

Please Note: After the expiration of the 30-day deadline, the Department may consider this issued permit to become null and void if the completed permit with original signatures is not received by the Department. Consequently, you may be required to submit a new permit application and the appropriate fee in order to obtain another permit.

Any request for an adjudicatory hearing must be made within twenty-one days of the date on which the Department issued the permit. Please refer to 310 CMR 40.0770 and 310 CMR 40.0050 for conditions under which an adjudicatory hearing may be requested.

If no request for an adjudicatory hearing is made, this permit shall become effective twenty-one days after the date on which the Department issues the permit and the Department's receipt of your signed Permit Acceptance Statement, whichever is later.

Also, please note that if Immediate Response Actions and/or Release Abatement Measures remain on-going at this disposal site, IRA and/or RAM Status Reports and/or Completion Statements should be filed with the Department in compliance with the MCP, 310 CMR 40.0000. In addition, if present, Critical Exposure Pathways must be eliminated, prevented, or mitigated pursuant to 310 CMR 40.0414.

The approval of this Permit Extension does not constitute an approval of any other Response Action performed at the site in compliance with 310 CMR 40.0000.

If you have any questions, please contact Chris Coolen at the letterhead address or by calling (978) 661-7600.

Sincerely,

Chris A. Coolen
Environmental Analyst

Joanne Fagan, Section Chief
Compliance Assistance/Permits
Bureau of Waste Site Cleanup

Attachments: Permit and Permit Acceptance Statement (2 copies)

cc w/o attachments:

Town of Amesbury, Chief Municipal Officer, 62 Friend Street, Amesbury, MA 01913
Amesbury Health Department, Town Hall Annex, 9 School Street, Amesbury, MA 01913
Merrimac Land Corporation, 20 Inn Street, Newburyport, MA 01950, Attn: Mr. Richard A. Gardiner
Simmons Environmental Services, Inc., 213 Elm Street, Salisbury, MA 01952
Attn: Mr. William Simmons, LSP
DEP NERO File

10/25/94

3-0204
BAILEY POND PARCEL
77 MERRIMAC ST
AMESBURY

Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup (BWSC)

TIER I TRANSITION CLASSIFICATION AND PERMIT STATEMENT

For DEP Use Only
Effective Date: 7/7/1995
Expiration Date: 7/7/2000

This Permit is Issued to:

x One Permittee

☐ More than One Permittee*

*A list of all Permittees is attached.

One Permittee:

Name of Organization:	Gardiner Associates		
Permittee Name:	Merrimack Land Corporation		
Title or c/o:	Mr. Richard Gardiner - President		
Street:	P.O. Box 6160		
City/Town:	Newburyport	State: MA	Zip code: 01950
Telephone:	508-465-3044		

DEP Finding Concerning Tier Classification

☐ Transition Tier IA (BWSC04) x Transition Tier IB (BWSC05) Permit No. 83075

This permit authorizes the performance of comprehensive remedial response actions at:

Disposal Site Number:	3-0204		
Disposal Site Name:	Bailey's Pond Parcel		
Street:	77 Merrimac St.		
City/Town:	Amesbury	State: MA	Zip code: 01013

The Permittee has 120 days from receipt of this Transition Permit to sign and submit the Transition Statement. This permit shall be effective upon the Department's receipt of the signed and dated Transition Statement.

This permit shall expire 5 years from its effective date.

Permit Conditions

(1) The permittee(s) performing response actions pursuant to this Tier I Permit shall comply at all times with M.G.L. c. 21E, 310 CMR 40.0000, the terms and conditions of the permit and any other applicable federal, state or local law.

(2) In every proceeding, the burden shall be on the Permittee to demonstrate compliance with the terms and conditions of a permit at all times.

(3) Each Permittee shall comply with:

(a) submittal of a Class A, B or C Response Action Outcome Statement within five years of the effective date of the permit; unless otherwise provided in the permit;

(b) submittal of a copy of the signed and completed Transition Classification and Permit Statement to the Chief Municipal Officer(s) and the local boards of health for the communities where the disposal site is located.

(c) notification in writing to the Department:

1. as required in 310 CMR 40.0500;
2. upon gaining knowledge of any technical, financial or legal inability to perform any necessary response action, in accordance with 310 CMR 40.0172;
3. upon a decision by a permittee who is performing response actions as an Other Person to not proceed as required by the permit; and
4. of any change in the LSP of Record for the disposal site no later than ten days after the effective date of such change through the filing of a Minor Permit Modification by the permittee in accordance with 310 CMR 40.0725;

(d) compliance with:

1. all applicable submittal requirements, including but not limited to, scopes of work, Status Reports, Completion Statements, Phase Reports, and RAOs;
2. all requirements for record keeping and document retention, including but not limited to 310 CMR 40.0014, 310 CMR 40.0022 and 310 CMR 40.0023;
3. the Notification Regulations, 310 CMR 40.0300, in the event of discovery of a new releases located at the disposal site, threat of release or Imminent Hazard;
4. the management procedures for excavated soils and wastes and requirements for remedial air emissions set forth in 310 CMR 40.0030 and 310 CMR 40.0040; and
5. all public involvement activities required by 310 CMR 40.1400 through 40.1406;

(e) inclusion of the Disposal Site Number and the permit number on documents submitted to the Department with respect to the disposal site;

(f) certification of documents submitted to the Department as required by 310 CMR 40.0009;

(g) evaluation of the need to perform Immediate Response Actions in accordance with 310 CMR 40.0400 as new or additional information about the disposal site is obtained;

(h) modification or cessation of any response action as necessary to maintain compliance with any permit condition or to prevent an actual or potential threat to health, safety, public welfare, or the environment;

(i) notification, orally or in writing, to the Department within seventy-two hours of obtaining knowledge of the need to modify or cease any response actions for the reasons in 310 CMR 40.0740(3)(h); provided that any such oral notification shall be confirmed by the permittee in writing within sixty days of such oral notice and any written notice shall include a Status Report prepared by an LSP; and timely remediation of any adverse impacts to health, safety, public welfare or the environment that result from the performance of response actions;

(j) at disposal sites where groundwater investigation is necessary, delineation of the vertical and horizontal extent of contamination, identification and confirmation of groundwater flow directions, identification of groundwater migration pathways, including but not limited to, the identification of possible partitioning of dissolved volatile organic compounds at the water table interface which may lead to vapor transport into subsurface structures, homes or other occupied or unoccupied buildings, and monitoring of groundwater wells, discharges and/or other monitoring points in a manner which provides for the timely development or representative information about conditions and changes in conditions at the disposal site;

(k) acquisition of all required federal, state and local permits;

(l) proper operation and maintenance of all treatment, storage, abatement or control systems and of all equipment required to continue or complete response actions;

(m) authorization for personnel and authorized agents of the Department to enter, at reasonable times and upon the presentation of credentials, any premises owned or controlled by the permittee for the purpose of investigating, sampling, or inspecting any records, conditions, equipment, practice or property relating to response actions at the disposal site, or protecting health, safety, public welfare, or the environment; and

(n) notification upon a change of the Primary representative as required by 310 CMR 40.0703(7), if one is designated.

(4) A Tier I Permit does not grant any property rights or exclusive privileges, nor does it authorize any injury to private property or invasion of property rights.

Special Conditions:

Each Permittee shall comply with all Special Conditions if attached to this permit in **Attachment A**. **Special Conditions** are included within this permit:

☐ Yes x No

DEP Authorization

Issued by the Department of Environmental Protection:

Name (Print): STEPHEN M. JOHNSON Date of Issuance: OCT 25 1994

Signature Stephen M. Johnson

Notice of Appeal Rights

Any person aggrieved by this permit decision may request an adjudicatory hearing within 21 days of the date of issuance (the postmark date of this Permit as described in 310 CMR 40.0008) of this permit, if the Department has imposed special conditions (as set forth in Attachment A) without the Permittees consent or agreement, in accordance with 310 CMR 40.0050.

Primary Representative and LSP Information

Primary Representative (only applicable if there is more than one Permittee) For more than one Permittee, a Primary Representative can be designated and authorized. If you are designating a Primary Representative provide the following information:

☐ Check if Primary Representative is also a Permittee.

Name of Organization: GARDINER & ASSOCIATES, INC.
Primary Representative Name: RICHARD A. GARDINER
Title: PRESIDENT
Street: P.O. BOX 6160
City/Town: NEWBURYPORT State: MA Zip code: 01950
Telephone: 508-465-3044

Primary Representative Certification:

I certify under the penalties of law that I am fully authorized to act on behalf of all persons conducting response actions under this permit for the following purposes:

a) to receive oral and written correspondence from DEP with respect to this permit;

b) to receive oral and written correspondence from DEP with respect to the performance of response actions upon issuance of a Tier I permit; and

c) to receive any statement of fee required by 310 CMR 4.03(3) under this Tier I permit.

I am aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for wilfully submitting false, inaccurate, or incomplete information.

Name (Print): RICHARD A. GARDINER
Position or Title: PRESIDENT
Signature: Richard A. Gardiner
Date: 10/1/95

Note: The Primary Representative for more than one Permittee will receive the annual compliance assurance fee statement for the disposal site.

LSP Information

Provide the following information if an LSP has been engaged or employed to submit LSP Opinions concerning response actions that were approved prior to October 1, 1993.

Name (Print): VICTOR M. URANIC
License Number: 4014

Transition Statements

Note: Each Permittee must complete this section. For disposal sites with more than one Permittee, make copies of this section, have each Permittee complete this information, and submit all copies to the Department.

Check one of the following to indicate your response and then sign the appropriate paragraph (1 through 3) and the Certification of Submittal:

- ☑ I accept the Transition Permit (sign "1")
- ☐ I do not accept the Transition Permit and I am attaching a Major Permit Modification application (sign "2")
- ☐ I do not accept the Transition Permit and I intend to conduct response actions which were approved by the Department prior to October 1, 1993. (sign "3-A")
- ☐ I do not accept the Transition Permit and I do not intend to conduct response actions which were approved by the Department prior to October 1, 1993 (sign "3-B").

1. Transition Permit Acceptance Statement

I accept and agree to conduct all response actions pursuant to the terms and conditions of any and all Department approvals that are in effect as of October 1, 1993 as shown in Attachment B1. I agree to conduct all future response actions at this disposal site which are not subject to an existing Department approval in accordance with this Permit and the provisions of 310 CMR 40.0000, including response actions with approvals pending on October 1, 1993 and subsequently approved and listed in Attachment B2. I believe that I have the technical, financial, and legal ability to proceed with response actions at this site in accordance with M.G.L. c. 21E, 310 CMR 40.0000 and other applicable requirements. I am aware of the requirements set forth in 310 CMR 40.0172 for notifying the Department in the event that I am unable to proceed with such response actions.

Name (Print): RICHARD A. GARDINER
Position or title: PRESIDENT
Signature: Richard A. Gardiner
Date: 6/1/95

2. Transition Statement (if not accepting Transition Permit and attaching Major Permit Modification application).

I do not accept the enclosed Transition Permit, since the disposal site, in the Opinion of an LSP may be reclassified as Tier _____ (Insert Tier IB, IC, or Tier II, whichever is applicable). I am attaching a Major Permit Modification application pursuant to 310 CMR 40.0707.

Name (Print): _____
Position or title: _____
Signature: _____
Date: _____

3. Transition Statement if not accepting Transition Permit and providing statement regarding future response actions at the disposal site.

3-A. RP/PRP/Other Person intends to conduct response actions approved by DEP prior to October 1, 1993.

I do not accept the enclosed Transition Permit, however, I intend to conduct response actions which were approved by the Department prior to October 1, 1993. I have attached and incorporated within this Statement a schedule for when this work will be completed and a Status Report indicating whether one or more Temporary and/or Permanent Solutions have been achieved or will be achieved at the disposal site, including an LSP Opinion regarding the completion of response actions to date and the response actions remaining in order to achieve a Temporary or Permanent solution at the disposal site.

Name (Print): _____
Position or title: _____
Signature: _____
Date: _____

3-B. RP/PRP/Other Person does not intend to conduct response actions approved by DEP prior to October 1, 1993.

I do not accept the enclosed Transition Permit and do not intend to conduct response actions including any response actions approved by the Department prior to October 1, 1993. I have attached an explanation of why I will not continue with response actions at the disposal site including, where appropriate, an explanation of any technical, financial, or legal inabilities that preclude me from undertaking response actions at the disposal site as outlined in 310 CMR 40.0172. I have attached and incorporated within this Statement, a Status Report indicating whether one or more Temporary and/or Permanent Solutions have been achieved or will be achieved at the disposal site, including an LSP Opinion regarding the completion of response actions to date and the response actions remaining in order to achieve a Temporary or Permanent Solution at the disposal site.

Name (Print): _____
Position or title: _____
Signature: _____
Date: _____

Certification of Submittal (The above permittee must also sign the following certification)

I certify under the penalties of law that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this certification, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained herein is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for wilfully submitting false, inaccurate or incomplete information.

Name (Print): RICHARD A GARDNER
Position or title: PRESIDENT, NEFANNCK LAND CORP.
Signature: Richard A Gardner
Date: 6/1/95

This Attachment will be completed by DEP

ATTACHMENT A TO PERMIT NO. 83075

Each Permittee shall comply with the following special conditions:

x Check here if not applicable to this permit.

This Attachment will be completed by DEP

ATTACHMENT B TO PERMIT NO. 83075

B1. The following Department approvals were in effect as of October 1, 1993:

x Check here if not applicable to this permit.

B2. The following response actions, which were pending as of October 1, 1993, and are now approved by DEP and in effect under this permit.

x Check here if not applicable to this permit.

File Copy

Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection
Metro Boston/Northeast Regional Office

William F. Weld
Governor
Trudy S. Coxe
Secretary, EOEA
Thomas B. Powers
Acting Commissioner

CERTIFIED MAIL

October 25, 1994

Mr. Richard Gardiner
Gardiner Associates
297 Elm St.
Amesbury, MA 01013

RE: **Amesbury**
Bailey's Pond Parcel
Merrimac & Beacon Sts.
DEP RTN **3-0204**
Permit #83075
TRANSITION PERMIT STATEMENT

Dear Mr. Gardiner:

The Massachusetts Department of Environmental Protection (DEP) has redesigned the Waste Site Cleanup Program. The revised Massachusetts Contingency Plan ("MCP"; 310 CMR 40.0000) and related fee regulations (310 CMR 4.00) became effective on October 1, 1993. The new MCP includes specific requirements for sites which had been classified as "priority disposal sites" under the 1988 version of the MCP in order for them to make the transition into the redesigned program. (See enclosed Transition Fact Sheet #5 for more information).

This letter is being sent to you regarding the above-referenced site which was previously classified as a "priority disposal site" and listed as such on DEP's August 1993 Transition List of Confirmed Disposal Sites and Locations to Be Investigated, or Addenda thereto. You were previously identified as a "Potentially Responsible Party" (PRP) for the above-referenced site with potential liability under MGL c.21E §5. A Notice of Responsibility was sent to you by the Department on February 13, 1986. The site was classified and listed by DEP as a priority disposal site on January 15, 1989. The reason for triggering the priority classification was due to the conditions present at the site providing the opportunity for direct contact with mercury contaminated surface soils.

10 Commerce Way • Woburn, Massachusetts 01801 • FAX (617) 932-7615 • Telephone (617) 932-7600

TRANSITION CLASSIFICATION

Under the new MCP, sites will be classified as either Tier I or Tier II. All Tier I sites require permits to proceed with assessment and remediation. Tier I sites will be further divided into three permit categories, Tier IA, IB and IC. Sites classified as Tier IA will be managed by a Licensed Site Professional (LSP) under the Department's direct oversight. Tier IB and IC sites will be managed by LSPs and will not receive direct oversight by DEP, but will be subject to DEP audit.

The Transition regulations of the new MCP (310 CMR 40.0640), categorically classify all "priority disposal sites" as Tier IA sites. However, the regulations allow DEP to classify priority disposal sites as Tier IB instead of Tier IA on a case-by-case basis. This process is described in 310 CMR 40.0640.

After reviewing the file for the subject site, the Department has determined that the above-referenced site can be classified Tier IB upon your agreement to the terms described in this letter and in the attached "Transition Classification and Permit Statement" (Transition Statement).

The Transition Statement, when completed in accordance with the Transition Provisions, 310 CMR 40.0640, and signed and dated by you will become a valid Tier IB permit for the site effective upon its receipt by the Department.

If you sign and return the Transition Statement within 120 days, please also submit a brief update of response actions which have been completed to date, are ongoing, and/or are planned for the above-referenced site. This summary should include, but not be limited to, the dates of completion of Phase I, II, III, or IV reports, Short Term Measures, and Interim Measures.

RECOMMENDED RESPONSE ACTIONS

Upon review of the site information in preparation of this Transition Statement, certain response actions were noted that should be conducted and/or completed at this site. Specifically, access to the site should be restricted by repairing the fence, the remaining stockpiles of contaminated soil should be buried and capped, and the pond sediments, that would have been impacted by runoff from the site, should be sampled in accordance with

applicable regulations, and the terms established at the meeting between representatives of Merrimac Land Corporation and the Department on June 3, 1992.

TRANSITION STATEMENT

The Transition Statement for the above-referenced site is attached for your review and action. According to 310 CMR 40.0640(3), you must sign and return the Transition Statement to DEP within 120 days of your receipt of this letter indicating whether you (1) accept the terms of the Transition Statement, (2) disagree with DEP's classification of the site, or (3) do not accept the terms of the Transition Statement. These options are as follows:

(1) Accept Transition Statement: To accept the terms of the Transition Statement, please sign and date both copies of the Statement at Paragraph "1" and return one copy to this office. (Please also send a copy of one of the signed Transition Statements to the Chief Municipal Officer and Chairman of the Board of Health.) Annual Tier IB Compliance Fees will be assessed starting October 1, 1993. Please note: a Tier IB permit application fee is not required for a Tier IB permit issued pursuant to the Transition Provisions, 310 CMR 40.0600. The Tier IB Transition Permit will be effective upon the Department's receipt of the signed and dated Transition Statement [310 CMR 40.0640 (3)(b)1.a].

(2) Disagree with Permit Category in the Transition Statement: If you do not agree with the Department's determination that this site should be classified as Tier IB because, in the Opinion of an LSP, the site should be reclassified, sign and date both copies of the Statement at Paragraph "2" and return one copy to this office within 120 days. (Please also send a copy of one of the signed Transition Statements to the Chief Municipal Officer and Chairman of the Board of Health.) In order to change the site's permit category and in order to continue response actions at the subject site, you must obtain a Major Permit Modification from DEP. To do so, you must submit a "Major Permit Modification" application (310 CMR 40.0707), which includes an LSP Tier Classification Opinion, and fee of $1200. This application will then be processed according to the provisions of 310 CM 40.0700. The appropriate Annual Compliance Fee will be determined pending the outcome of the permit modification application review.

If you wish to conduct assessment activities (such as the sampling of existing monitoring wells, the sampling of surficial soils, and the monitoring of vapors inside buildings) within 120 days in an effort to document a lower Tier Classification for the purposes of filing a Major Permit Modification with DEP, you may do so. However, "intrusive" assessment activities (subsurface investigations involving test pits, new monitoring wells, and soil borings, etc.), will require prior DEP approval, unless they are being done as part of a response action which already has DEP approval.

(3) Do Not Accept Transition Statement: If you do not accept this Transition Statement, you must sign and date the Statement at Paragraph "3-A" or "3-B" and return one copy to this office. (Please also send a copy of one of the signed Transition Statements to the Chief Municipal Officer and Chairman of the Board of Health.) You must also indicate whether or not you intend to conduct any response actions which were approved by DEP prior to the date of this letter. If you do not intend to conduct such response actions, you must include an explanation pursuant to 310 CMR 40.0171 and 40.0172. If you do intend to conduct these response actions, you must include a schedule for completing them.

Whether or not you intend to complete work previously approved, you must submit a Status Report which includes an LSP Opinion as to whether a Temporary or Permanent Solution has been or will be achieved at the site, and if not, the response actions necessary to do so [310 CMR 40.0640(3)(b)3].

Please note that if this site is adjacent to another disposal site where response actions are being conducted, it may be necessary to coordinate your response actions with those being undertaken on the adjacent site. All persons authorized to conduct response actions under a Tier I permit must comply at all times with MGL c. 21E, 310 CM 40.0000, permit terms and conditions and any other applicable federal, state, and local law. Failure to comply with all applicable requirements shall be cause for the Department to initiate enforcement action, including, without limitation, permit suspension or revocation.

If the enclosed Transition Statement is not returned to the Department within 120 days of its receipt, or if you do not accept the Transition Permit under paragraph (3) above, the Annual Compliance Fee for Tier IB sites ($2,600) will be assessed, beginning on the day after such Transition Statement is due [310

CMR 40.0640(4)]. In addition, DEP may commence appropriate enforcement actions to ensure that the required response actions for the above-referenced site are initiated and completed in a timely manner.

We recognize that there may be difficulties and confusion during the transition of existing sites from the old MCP to the new MCP. The new MCP, however, offers many incentives and opportunities for streamlined, timely, and efficient cleanups. It is our intent to provide you with as smooth a transition as possible.

Should you have any questions about this letter or the Transition Statement, please contact **Chris A. Coolen** at (617)932-7600 or at the above address.

Sincerely,

Chris Coolen

Chris Coolen, Environmental Analyst

Stephen M. Johnson

Stephen M. Johnson, Section Chief
Site Management/Permit Branch

Attachments: Transition Fact Sheet #5

cc: Chief Municipal Officer
Amesbury Board of Health
Madeline Snow, Bureau of Waste Site Cleanup, DEP, Boston
Data entry/file

TRANSITION MEMORANDUM

TO: File

THROUGH: Ida Babroudi, Environmental Engineer, BB
Permits Group Supervisor, Site Management Branch

FROM: Chris Coolen, Environmental Analyst,
Permits Group, Site Management Branch

DATE: September 1, 1994

SUBJECT: **Amesbury, RTN 3-0204**
Bailey's Pond Parcel, Merrimac & Beacon Sts.
Transition Memorandum

The Purpose of this memorandum is to outline the Department of Environmental Protection's (the Department) rationale in the decision to classify the subject site as a Tier IB site under the 1993 Massachusetts Contingency Plan (MCP), 310 CMR 40.0000. This Transition Memorandum provides information concerning the status of the investigation and remediation of releases of oil and hazardous materials to the environment at the subject site.

Background

The site is located on a 17.5 acre parcel that fronts on Merrimac & Beacon Sts. at their intersection. This parcel includes the 13.6 acre Bailey's Pond which is located further to the north and up gradient to the site, and a piece of land further north that fronts on Summit Ave. An outlet to the pond drains into a culvert that runs through the site to the Merrimac River 300+/- feet to the south. The site is set in a residential/industrial area of Amesbury. The site is located opposite to a 19th century mill that once operated as a hat manufacturing plant. A community of residential condominiums, retail stores, a restaurant, and a 100 slip marina was proposed for the mill by the current owner. A parking lot that serviced the development was proposed for the subject site. The subject site had been used as a parking lot in the past.

The contaminant of concern is mercury, which had apparently been vented from the mill from a felting process that was performed there. Therefore, mercury was deposited onto surface soils of the surrounding areas. Waste material was also dumped as fill in some locations. Bailey's Pond had been used as a water source by the mill. No known discharges of waste water to the subsurface soils have been reported. The waste water was apparently discharged

directly to the Merrimac River.

The site originally came to the attention of the Department on May 2, 1985, as a result of an investigation of the mill and surrounding area by Goldberg-Zoino and Associates for a potential buyer. A Notice of Responsibility was later issued to Gardner Associates (the new owners) on February 13, 1986. In the early part of 1987, an aquatic study was completed on fish tissue from Bailey's Pond without finding any significant mercury levels in fish. A remediation Strategy was developed by Buonicore Cashman Associates. The report was received on March 4, 1987. DEP expanded the perimeter of investigation to residential lots and initiated a soil sampling program on August 29, 1987. The site was first listed as a priority site on January 15, 1989, based on database records. The classification as such was at least in part due to the potential for direct exposure by the nearby residences to mercury in surface soils.

Soil removal apparently began in December of 1988 in the most concentrated contamination areas at both the mill and subject site. Contaminated soils with levels below 10 mg/kg were brought to the subject site to be capped and monitored. Based on the file contents, little seemed to have been done with the soil after it was stockpiled. Energy and resources became diverted to MEPA requirements for a proposed marina on the Merrimac River. Due to inactivity and new priorities, Departmental oversight was discontinued on April 8, 1992. The site is considered to be in Phase IV despite the lack of a comprehensive assessment.

Tier IB Status

Section 40.0730 (1) of the 1993 MCP 310 CMR 40.0000 outlines the criteria to be considered in the review of a Tier I Permit Application. A consideration of these criteria, with respect to the Bailey's Pond Parcel site, is presented below:

a) <u>existence, source, nature, and extent of release;</u>

Total mercury contamination in soil was limited to the near surface soil. The higher levels were detected in the top 6 inches of soil according to a testing program performed by GZA in 1985. The highest level detected on site near Bailey's Pond was 120 ug/g wet weight. Contamination had been brought onto the subject site from the mill. No records are available to indicate that the groundwater had ever been tested on site. Testing of groundwater had been performed on the adjacent mill site, and on surface waters of Bailey's Pond itself. No mercury was detected in either case. Tests on fish yielded levels up to .24 ug/g (below safety limits established for edible fish of .5 ug/g). The highest level of mercury detected in pond sediment was 1.71 ug/g dry weight.

b) nature and extent of danger to health, safety, public welfare and the environment posed by the disposal site;

The site is surrounded on three sides by a 6+/- foot wooden stockade fence and is well posted on the street side of the property. A portion of the fence on the north side has a 4-5 foot section torn down giving access from a perimeter trail around the pond that is frequented by dirt bikes or quadrunners. It is possible that the subject site is used as a short cut to the trail. There is also easy access to the site from the north side via the water's edge and the pond itself.

The Division of Wildlife and Fisheries has discontinued stocking the pond. No private wells have been reported to exist at the site or its vicinity.

c) magnitude and complexity of the actions necessary to assess, contain, or remove the OHMs in question;

It appears that all the mercury contaminated soil greater than 10 mg/kg have been removed from the site completely, and material excavated from both the site and mill with lesser concentrations was brought to the site for disposal. It was agreed that at least 12 inches of cover with bituminous pavement over it be placed at the site, and future access be controlled via monitoring and deed restriction.

d) the extent to which there are legally enforceable standardized methods and criteria available for response actions;

Methods and criteria are established in 310 CMR 40.0000 (the Massachusetts Contingency Plan), and other policy/guidance documents.

e) the extent to which DEP is persuaded that the applicant has the ability and willingness to perform necessary response actions;

The PRP had expressed strong reservations about losing DEP oversight. He thought the lack of it would jeopardize the process and his ability to market the property in the future. There seemed to be a willingness to perform response actions when funding had been available.

f) applicant's compliance history with 21E and other regulations;

There were no compliance issues during oversight. No work was performed pending financing and MEPA approvals until complaints to DEP forced the PRP to correct access and potential exposure issues. No documentation existed to demonstrate that the terms of the agreements with regard to the soil stockpiles had been complied with. A visual inspection reveals that a hole remains in the fence, there are uncovered stockpiles, and no pavement on the potentially contaminated areas.

g) the extent to which DEP oversight is necessary to ensure compliance with the new MCP;

The levels that remain stockpiled appear to be low and DEP oversight does not appear to be warranted. Furthermore, financial incentives in the form of compliance fees plus LSP oversight appear to be enough to motivate the PRP to proceed with whatever work may be necessary.

h) any permit conditions developed pursuant to 310 CMR 40.0740 (3)(o) to which the applicant has consented; and

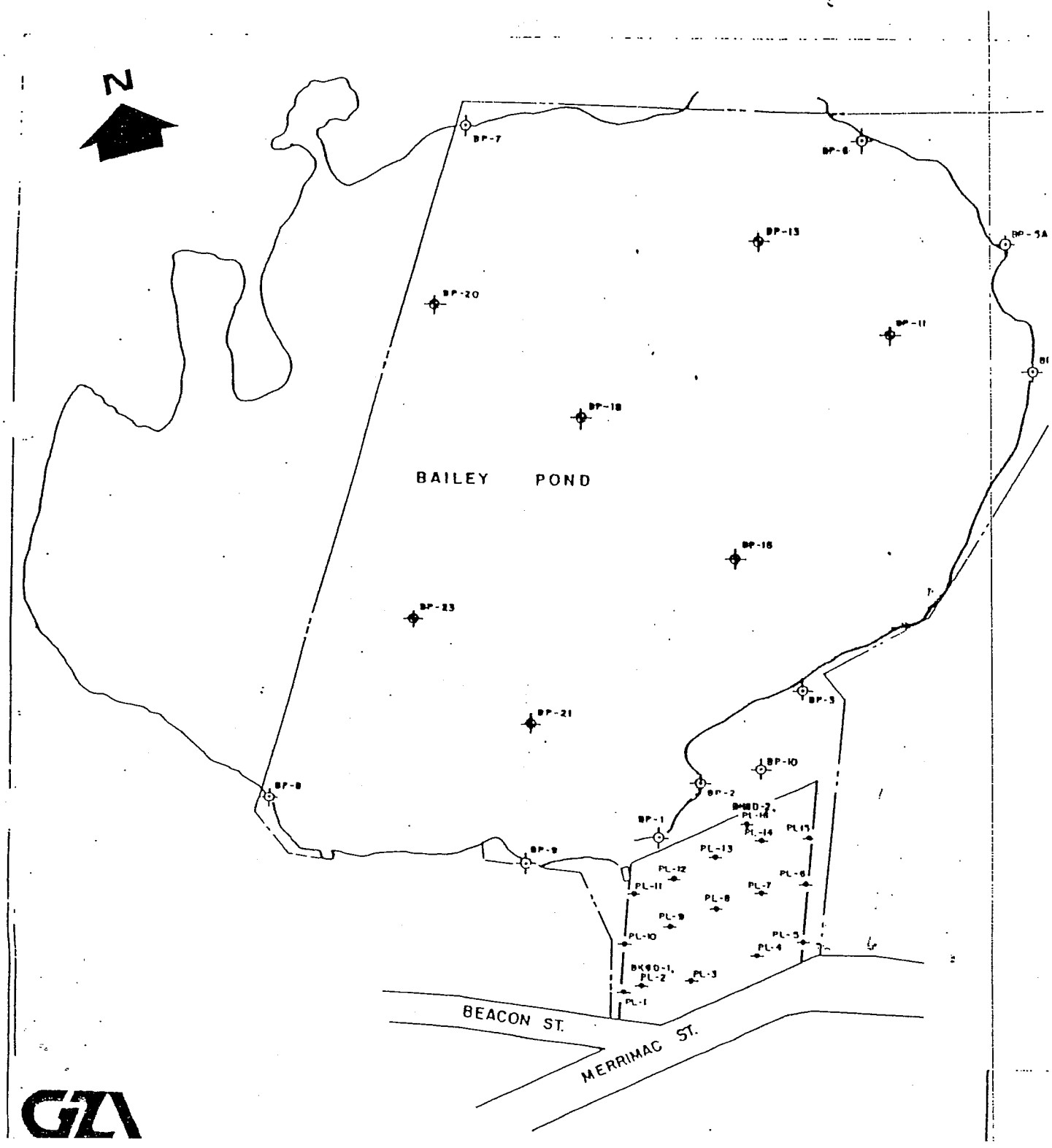
None.

i) any other factor the DEP deems relevant to the decision.

None.

Recommended Permit Conditions (if necessary)

Not applicable.


N
BAILEY POND
BP-7
BP-6
BP-13
BP-5A
BP-20
BP-11
BP-18
BP-16
BP-23
BP-21
BP-3
BP-10
BP-2
BP-1
BP-9
BP-8
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PL-13
PL-14
PL-15
BEACON ST.
MERRIMAC ST.

GZA

TAB 20

MEMORANDUM to the FILE

TO: File

THROUGH: Ida Babroudi, Environmental Engineer, SB
Permits Group Supervisor, Site Management Branch

FROM: Chris Coolen, Environmental Analyst, CC
Permits Group, Site Management Branch

DATE: August 22, 1994

SUBJECT: **Amesbury, RTN 3-0204**
Bailey's Pond Parcel, Merrimac & Beacon Sts.
Site Reconnaissance/Transition Memorandum Addendum

On August 16, 1994 the writer visited the subject site to determine what was done with mercury contaminated soils that had been excavated from both the site and mill property and stockpiled on site. The last record indicated that there was an agreement to cover stockpiled soils, with clean fill and bituminous pavement, and to limit access by repairing a hole in the fence. The following observations were made:

The site is surrounded on three sides by a 6+/- foot wooden stockade fence that is well posted on the street side of the property. A 4-5 foot section of the fence on the north side has been torn down, which gives access to and from a trail, that appears to be frequented by dirt bikes or quadrunners. There is also easy access to the site at the north via the water's edge and the pond itself. There is evidence that the subject site is used as a short cut from the street to the trail. One potential point of entry from the street is at a location where the fence comes to a 3-4 foot retaining wall and then continues along the top of the wall. The jog in the fence allows easy access to the site from the top of the retaining wall. There is visible damage to the fence at that point also.

In the front of this site, there was an undisturbed remnant of the old bituminous surface, and some apparently undisturbed soil on the high ground in the north east corner. The undisturbed ground ended at a 1-2 foot escarpment that marked the perimeter of an excavation that sprawled across most of the site. It is possible that this excavation represents the limits of contaminated soil removal since mercury contamination had been confined to shallow surface soils, but the north half of the excavation was covered with tarpaulins. It is also possible that the contaminated soil that was brought onto the site and the excavated soil from the site have been placed into a deeper containment area and covered with fine sand, tarpaulins, and pea stone or larger, to hold the tarp in

place. The soil that would have been placed in the ground reportedly, would have been contaminated with less than 10 ug/g of mercury.

On the southeast corner, there was a small stockpile of coarse sand and gravel and bituminous pavement. There was a berm of the same material also containing a lot of re-bar along the south fence. Fragments of bituminous which may have been excavated from the old parking lot surface were observed in a pile. Yet, this pile was relatively smaller than the existing open excavation. Since there actually was a tarpaulin that appeared to have been blown off a pile in the immediate area, the pile was assumed to be the same one referred to in the file documentation. There had been a concern in the past, that runoff from the piles could carry sediments into the pond. However, runoff could not enter the pond from this pile as it is positioned now.

On the southwest corner at the pond shore, there was a retaining wall and culverted outlet for Bailey's Pond. Also exposed was a 3+/-inch steel pipe which appeared to be the old water supply line servicing the mill. A child's sled was laying on the ground at this spot also. The pond was posted at the water's edge with a sign that said "No Fishing Water Pollution". The sign could only be seen from the site side and not the pond side. No other signs were observed by the writer.

TAB 20

TAB 20