MEMORANDUM TO INTERESTED PARTIES

DATE: April 3, 2023

RE: **CAMPAIGN TO DREDGE THE UPPER BASS RIVER**

Last year, as neighbors and/or abuttors of the upper Bass River, and because of our concern about the condition of the upper Bass River, we informally organized as a group to determine the status of the plans to dredge the upper Bass River, to determine when that work was likely to commence and to get an estimate of when the work was likely to be completed.

Since that time we found out that the towns of Dennis and Yarmouth a number of years ago had informally agreed that Dennis would take responsibility for securing the permitting to dredge the upper Bass River (from the Route 28 Bridge to Follins Pond), that Yarmouth would take responsibility for securing the permitting to dredge the lower Bass River (from the Route 28 Bridge to Nantucket Sound) and that the two towns would split the actual costs to dredge Bass River and equally share any spoilage or sand from the dredging.

In September of 2013 Dennis released to the public a plan to secure a ten-year permit to dredge the upper Bass River, Swan River and Sesuit Harbor. It was estimated that the dredging work on the upper Bass River would commence in 2018. The request for the permit to do that work, however, was not actually submitted to the State Department of Environmental Protection ("DEP") until the middle of 2018.

In the interim, Dennis was involved in a dispute with a home-owners association (the "Association") that had rights to a beach adjacent to the entrance to Swan River. In 2014 Dennis, acting under a previously issued dredging permit, planned to dredge the entrance to Swan River and use the spoilage to replenish the West Dennis Beach and they denied a request from the Association to use the spoilage to replenish their beach. Two days before that dredging was to commence the Association filed an action in the Superior Court of Barnstable County to require that that spoilage and any future spoilage from dredging Swan River would go to their beach. In 2017 the Superior Court of Barnstable County, on a motion for declaratory judgement filed by the Association, issued a decision in favor of the Association. The town appealed that decision and in 2018 the State Supreme Judicial Court reversed that decision and remanded the case for a full trial in the Superior Court. There has been no recorded action on that case since 2018.

After considering the permit request filed by Dennis in 2018, DEP issued an order of conditions that would require any spoilage from dredging Swan River go the Association's beach. The town filed an appeal to that order of conditions which is still pending. While that appeal is pending the permit to dredge the upper Bass River, Swan River and Sesuit Harbor was not issued. Dennis, however, did separate the request for a permit to dredge Sesuit Harbor from the original 2018 permit request and subsequently a separate permit was issued just for that work that would not be subject to or held up by the order of conditions concerning Swan River. The approach was not followed for the upper Bass River.

It is our understanding that several weeks ago the DEP, because of the length of time the 2018 request had been pending and the age of the testing material that was submitted with that request, dropped the 2018 permit request. In view of that, there is no permit request currently pending to approve dredging for either Bass River or Swan River and those requests will have to be resubmitted and new testing will be required.

On March 16th at 6:00 P.M. we held a meeting for interested parties at the Blue Rock Heights Association Clubhouse at 148 Blue Rock Road, Yarmouth, to review with interested parties from Dennis and Yarmouth our findings. Also, at the meeting was Bill Bonnetti, the Director of the Yarmouth Division of Natural Resources and the Harbor Master. Between 30 and 40 people attended the meeting. During the meeting we discussed our findings and answered questions from those in attendance. We also encouraged interested parties in Dennis and Yarmouth to contact their elected and appointed officials and to encourage them to come up with a plan to get this project back on track. Following the meeting we also set up a website (BassRiverdredging@gmail.com) for interested parties to share information on this topic.

We plan in the near future to schedule another meeting to discuss any updates on this topic and to gather suggestions on how to proceed. Please feel free to share this memorandum with any other interested parties and encourage them to send us their contact information so they can be invited to the next meeting.

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