

BEFORE THE TOWN OF CARVER ZONING BOARD OF APPEALS
APPEAL OF SAVE THE PINE BARRENS, INC.

AFFIDAVIT OF PATRICK GARNER

I, Patrick C. Garner, being duly sworn, depose and state as follows:

1. My name is Patrick C. Garner. I am the Principal of Patrick C. Garner Co., Inc., an environmental consulting firm located at 109 Whitney Street, Northborough, Massachusetts. I am a wetland scientist, professional land surveyor, certified soil evaluator and hydrologist with more than thirty years of experience in New England.

2. Early in 2021, I was retained by Save The Pine Barrens, Inc., to provide professional advise regarding soil excavation, cranberry bog operation and wetlands in Carver and Wareham, Massachusetts.

3. Between 1986 and 1991 I provided the identical services for United Cape Cod Cranberry Company (UCCCC), based in Hanson, Massachusetts. At the time UCCCC was the largest independent cranberry bog company in New England. I performed surveys and calculations allowing UCCCC to obtain sand and gravel permits, as well as performing bog maintenance consultations for the company to rehabilitate over 100 acres of cranberry bog.

4. I have performed hundreds of wetland studies and delineations in New England and the southeastern United States. I frequently appear before Conservation Commissions in Massachusetts, and I regularly represent clients before the Massachusetts Department of Environmental Protection (“MassDEP”) with respect to environmental matters. I am also a peer reviewer for numerous Conservation Commissions in Massachusetts. In that capacity, I frequently review proposals by applicants or others, and advise towns about regulatory compliance.

5. As a Massachusetts certified soil evaluator for over 25 years I am familiar with and qualified to evaluate the soil types found throughout Massachusetts. In my professional career I have performed hundreds of soil evaluations, including numerous sites beside existing and proposed cranberry bogs.

6. This Affidavit concerns three of the sites which I am familiar with that identified in the Request. These are sites that have Earth Removal Permits issued by the Carver Earth Removal Committee (ERC) for the construction of agricultural projects. The sites are:

59 Federal Road; 46 Federal Road; and Hammond Street

7. To prepare for this Affidavit I reviewed documents relating to earth removal permits granted to AD Makepeace, Inc. (“Makepeace”) for the three sites. These included: AD Makepeace earth removal permit applications; Engineering plans submitted by G.A.F. Engineering, Inc. on behalf of AD Makepeace for the earth removal permits; MassGIS resource area mapping; and aerial mapping from multiple sources.

8. The earth removal permit applications and materials I reviewed for the three sites covered a time period of 2010 to late 2020. An Earth Removal Permit issued in 2020 pertains to 59 Federal Road for the removal of 4,045,000 cubic yards to build and agricultural project. Two permits dated 2011 and 2017 pertain to 46 Federal Road for the removal of a total of 2,385,000 cubic yards for an agricultural project. One permit dated 2019 is for the removal of 580,000 cubic yards on Hammond Street for an agricultural project.

9. For the three sites I reviewed plans by G.A.F. Engineering showing specific proposed locations for the construction of agricultural projects by Makepeace. These consisted of cranberry bogs, reservoirs and tail water recovery ponds for cranberry bog irrigation return flows.

10. On May 3, 2021, I visited the three sites with and at the invitation of the Carver Earth Removal Committee (ERC). Present on this site visit were: the Chairman of the ERC, five or six ERC members, Makepeace President Jim Kane and another person who the Chairman represented as also from Makepeace.

11. The site visit began at 8 a.m. and ended at approximately 10 a.m. when we visited the last of the three sites.

12. We accessed the 59 Federal Road earth removal site via a road that leads to both a ground-mounted solar installation and an earth removal operation on the north side of the solar installation. I observed the solar installation to be under construction and there was a work crew present.

13. The 59 Federal Road site I visited is the location shown on G.A.F. Engineering plans that are referenced in a 2020 Earth Removal Permit. These plans show the proposed excavation and removal of 4,045,000 cubic yards of earth and the construction of an 18 acre cranberry bog and reservoir.

14. At the 59 Federal Road earth removal site I observed an active earth removal operation that was in an area that largely contains extensive deposits of sand and gravel based on my observation. I observed earth removal equipment such as excavators and large-scale screeners. The quality of the sand being excavated appeared to be commercial quality; the screening operation allowed the stones and larger material to be separated from the commercial quality sands.

15. On that same day I had a complete view of the active area of the earth removal operation shown on the G.A.F. engineering plans for 59 Federal Road. At this location I did not

observe evidence of the construction of a bog or reservoir at the locations shown on the 2020 G.A.F. Engineering plans for the site.

16. On May 3, 2021, I visited the 46 Federal Road site with the ERC and Makepeace representatives. We accessed the site via the Read Custom Soils “Scale House” entrance off Federal Road and proceeded into an area that was actively being excavated. I observed earth removal equipment identical to that found on the site referenced above.

17. 46 Federal Road is the location where the ERC issued two permits in 2011 and 2017 for the excavation and removal of a total of 2,385,000 cubic yards of earth. (2011 permit is for 1,440,000 cubic yards and the 2017 permit is for 915,000 cubic yards). The G.A.F. Engineering plans for the Makepeace earth removal under the 2011 and 2017 permits at the 46 Federal Road location show proposed cranberry bogs and a tailwater recovery pond.

18. At the 46 Federal Road earth removal site on May 3, 2021, I observed an active earth removal operation that, based on my observation, was in an area that largely contained glacial outwash stones with small amounts of sand.

19. On that same day I had a full view of the active area of the earth removal operation shown on the plans for the 46 Federal Road location. I observed no evidence of the construction of the cranberry bog or reservoir at the locations shown on the 2011 and 2017 G.A.F. Engineering plans submitted to the ERC for the Makepeace earth removal permit applications.

20. On May 3, 2021, I visited the Hammond Street site with the ERC and Makepeace representatives. We accessed the site via Hammond Street, an unpaved road off Federal Road that leads to older, existing cranberry bogs. We proceeded into an area that was actively being excavated. I observed earth removal equipment identical to what was being used on the other sites we viewed.

21. The Hammond Street area I visited is the location shown on G.A.F. Engineering plans that are referenced in a 2019 Earth Removal Permit for the excavation and removal of a total of 580,000 cubic yards of earth. The G.A.F. Engineering plans for the Makepeace earth removal for the 2019 Earth Removal Permit at the Hammond Street show the proposed location of a tailwater recovery pond. At the Hammond Street earth removal site on May 3, 2021, I observed active removal of soils in an area that contains commercial quality sand and gravel based on my observation.

22. On that same day I had a complete view of the active area of the earth removal operation shown on the plans for the Hammond Street location. During my visit I did not observe evidence of the construction of a reservoir at the locations shown on the 2019 G.A.F. Engineering plans submitted to the ERC for the Makepeace Earth Removal Permit.

Signed under the pains and penalties of perjury this 28 day of September, 2021.

A handwritten signature in black ink that reads "Patrick Garner". The signature is written in a cursive, slightly slanted style.

Patrick Garner