

January 4, 2023

Edgartown Board of Selectmen
Edgartown Town Hall
70 Main Street, 3rd Floor
Edgartown, MA 02539

RE: TTOR's Abandonment of Phase Two of the Norton Point Project and Damage to the Dyke Bridge Bulkhead

Dear Sir or Madam:

I am writing regarding the Selectboard Meeting that took place on January 3, 2023; specifically on the topic of the TTOR's failure to assist with Phase Two of the Norton Point remediation project. My in-laws, Dawn and Victor Colantonio, are residents of 99 Lighthouse Road on Cape Pogue in Chappaquiddick. I have spent a considerable amount of time on Cape Pogue for over a decade now and, unfortunately, I am quite familiar with the TTOR practices out on Norton Point, Leland Beach, and Cape Pogue.

From what I understand, TTOR collected approximately \$100,000.00 in funds from various sources that should have been applied to the Norton Point remediation project. Not only did they fail to make any significant contribution to Phase One of the project, but to make matters even worse, they pulled out from Phase Two of the project in early December. As I am sure you are aware, this put the Town in a compromised position to where they must now rush to complete the project by the summer at an increased expense. On December 28, 2022, the TTOR indicated that they are no longer going to contribute any of the funds they previously received for the remediation project. As was aptly pointed out, this certainly has the optics of being spiteful.

Sadly, news of TTOR's behavior on Norton Point comes as no surprise. It appears that TTOR's delinquency is part of an on-going pattern of behavior that has gotten progressively worse over the last several years. From what I understand, TTOR also receives funds from the US Coast Guard to maintain the Cape Pogue Lighthouse. The once proud symbol of Chappaquiddick has fallen into total disrepair.

The reason I am bringing this up is twofold: First, has TTOR represented to the Town that any unused funds marked for the Norton Point remediation project were returned to their grantors? If not, perhaps TTOR's status as a tax-exempt non-profit organization should be re-evaluated by the appropriate agencies. Second, TTOR's dereliction of duty as it pertains to Norton Point also coincides with the recent deterioration of the Dyke Bridge.

During a recent storm shortly after the Christmas holiday, the Dyke Bridge bulkhead was severely damaged. So much so, that large extensions of rebar pipping have been exposed. These conditions post an undoubted danger to Cape Pogue residents who rely on the bridge as their only means of ingress and egress. Moreover, these conditions can undeniably be attributable to the overuse of the bridge by Over Sand Vehicle (OSV) permit holders precipitated by TTOR's commercial activities. A recent FOIA document request revealed approximately 38,000 bridge users on an annual basis according to a traffic counter.

TTOR's actions can no longer go unchecked. They have profited off this fragile resource for decades now and have left the Town, as well as the Cape Pogue residents, with extreme hardship. My humble recommendation is that the Town closes to bridge to vehicle traffic, except for essential vehicles, until TTOR repairs the Dyke Bridge. Frankly, I believe the Town has legal standing to take the land from the Dyke to the bathing beach for public use under the power of eminent domain.

See Massachusetts Constitution, Part I, Article X; *see also* M.G.L. Ch. 79. TTOR's inept stewardship of this land has been made patently clear.

Sincerely,

ss:// Joseph J. Russo

Joseph J. Russo, Esq.

CC: Edgartown Conservation Commission

Town Administrator

District of Critical Planning and Concern – Cape Pogue

Condition of Dike Bridge

2 messages

Osler <osler3@comcast.net>
To: selectmen@edgartown-ma.us

Thu, Jan 5, 2023 at 5:23 PM

To the Edgartown Selectboard:

As seasonal (May-October) residents of Cape Pogue, we write to let you know that we are extremely concerned about the current condition of the bulkhead at the Dike Bridge, specifically the eastern portion of the Dike, which we understand is owned by The Trustees of Reservations (TTOR).

As you most likely are aware by now, recent storms appear to have significantly damaged this portion of the Dike and seriously compromised its integrity (see photos by Rachel Self attached). This presents a serious safety and emergency access issue, not only for the general public, but for Cape Pogue property owners whose only access to their property is through this portion of the dike causeway.

We feel that the Dike's current deplorable condition is a direct result of (1) the total neglect and lack of maintenance by TTOR over the past 10-15 years and (2) overuse of the Dike due to excessive sale of OSV permits by TTOR.

Until proper repairs can be made to the bulkhead by TTOR, is it possible for the Town to prohibit use of the town-owned bridge to all but essential vehicles (which we understand to mean emergency maintenance and resident vehicles)?

Sincerely,

Karen and Boyd Osler
Jay and Malissa Osler

cc: conservation@edgartown-ma.us
kshemeth@edgartown-ma.us
jvarkonda@edgartown-ma.us
rms@attorneyself.com
jhagerty@edgartown-ma.us

 **photos dike damage.pages**
5440K



Rachel Self <rms@attorneyself.com>

Dike Bridge

Osler <osler3@comcast.net>

Thu, Jan 5, 2023 at 5:03 PM

To: Darci Schofield <dschofield@thetrustees.org>

RE: Condition of the Dike

Hello Darcy,

We are writing to ask you to please advise us of current TTOR plans to repair and make safe again the extensively damaged portion of the eastern end of the bulkhead at the Dike.

We ask not only because we are planning to make our monthly "trek" out to Pogue this coming Sunday to check on our property but also because we believe all Cape Pogue property owners should be apprised of the status of repairs.

Sincerely,

Boyd and Karen Osler
Jay and Malissa Osler



From: Vic Colant <v.colantonio@gmail.com>
Date: January 16, 2023 at 5:54:54 PM EST
To: conservation@edgartown-ma.us, Kara Shemeth <kshemeth@edgartown-ma.us>, Jane Varkonda <jvarkonda@edgartown-ma.us>, James Hagerty <jhagerty@edgartown-ma.us>
Subject: ConCom meeting of 12/19/22 - Why so long?

January 16, 2023

Edgartown Conservation Commission, Town Hall, Edgartown MA

CC: Edgartown Select Board

RE: Reply to Commissioner Geoffrey Kontje

Dear Commissioners,

Greetings and warm wishes for a productive new year.

At the 12.19.22 ConCom meeting I offered a reply to Mr. Kontje's question, Why so long to object to the Trustees stewardship?

Since 2012 Pogue residents' expressed our concerns in formal annual meetings with the Trustees' leadership. During the transition of Hart-Morrison-Schofield, TTOR stopped talking to us. It was then we realized they never intended to act on our concerns.

My family's displeasure with Trustee stewardship began when Dave Belcher departed. Life on Pogue became progressively worse with repeated harassment, being obstructed from our land and shared right-of-way, repeated trespass, damage to our property and OSVs overburdening of the entire resource. Due to these and other issues, we are suing TTOR in

Land Court.

We are also monitoring Selectman, County, DCPC and ConCom meetings. We believe the Wetland Protection Act is intended to prevent people and organizations. i.e., Trustees, from selling a single OSV “permit”, let alone unlimited numbers, for the general public go 4-wheeling through undeveloped / unimproved naturally occurring inland wetlands, coastal wetlands, salt marshes, clam flats, through flooded areas, on tidal over-washes, eroding beaches, within intertidal zones, over and through primary beach dunes and below the high water mark (intertidal zone) of Cape Pogue Bay.

It is unconscionable that ConCom could grant TTOR an Order that allows UNLIMITED NUMBERS OF OSVs ALL DAY EVERY DAY to an organization that is unable to even satisfy the first qualification of the Wetland Protection Act, evidence of ownership or control of ALL the land upon which the Order sought will apply.

Sincerely,

Victor Colantonio, Trustee, The Dawn Roberta Colantonio Revocable Trust

Edgartown / Cape Pogue, (55 Lighthouse Road, [0 Road to the Gut](#))

c/o [99 Franklin Street Newton, MA 02458](#)

Sent from [Mail](#) for Windows



Condition of Dyke Bridge Bulkhead

Ross, Thomas <thomas.ross@axiscapital.com>

Wed, Jan 4, 2023 at 11:34 AM

To: "selectmen@edgartown-ma.us" <selectmen@edgartown-ma.us>, "conservation@edgartown-ma.us" <conservation@edgartown-ma.us>, "kshemeth@edgartown-ma.us" <kshemeth@edgartown-ma.us>, "jvarkonda@edgartown-ma.us" <jvarkonda@edgartown-ma.us>, "rms@attorneyself.com" <rms@attorneyself.com>, "jhagerty@edgartown-ma.us" <jhagerty@edgartown-ma.us>
Cc: "bross621@earthlink.net" <bross621@earthlink.net>

Dear Selectman,

As property owners at Cape Pogue (59 Lighthouse Road and [17 Road to the Gut](#)), my wife and I are very concerned about the condition of the approach to the Dyke Bridge from the beach. A video was shared after the last storm showing significant damage to the bulkhead, tie bars and exposed holes due to erosion.

For any Cape Pogue property owner this is our only access to our property. Additionally, this is the only access for beach goers, fisherman, shell fisherman and bird watchers wishing to visit Cape Pogue, The Jetties and East Beach.

Beyond the walking hazard due to these conditions, I'm not sure what this could mean for vehicles crossing this potentially dangerous bulkhead.

As a community, Cape Pogue property owners have been meeting with the Trustees for years to bring the bulkhead up to satisfactory condition. We have been told the Trustees are working on this but after at least 10 years no improvements have been made.

My wife and I want to see an approved beach management plan in place with vehicle limitations to protect the area. By no means do we want to take away peoples access to Cape Pogue including over sand vehicles, however, we find we are all at the mercy of the Trustees. It's clear that money the Trustees has earned from Cape Pogue and other Vineyard properties are not being invested back in the properties but diverted elsewhere leaving us with an overburdened and unsafe infrastructure.

I wonder if the Dyke Bridge should be closed to all but essential vehicles until the safety and remediation of the bulkhead can be evaluated and performed. My concern is too many vehicles could rapidly deteriorate the bulkhead cutting access off to this beautiful but fragile ecosystem.

Sincerely,

Tom & Becky Ross

Thomas P. Ross
Senior Vice President

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*Rated "A+" by Standard & Poor's and
"A" by A.M. Best for Financial Strength*





Dike Emergency Repairs Update

Ross, Thomas <thomas.ross@axiscapital.com>

Tue, Jan 17, 2023 at 5:47 PM

Darci,

Becky and I would very much like an update to what the Trustees are doing about the bulkhead regarding remediation to bring it up to a safe and acceptable standard for travel. This egress is vital to fisherman, beach goers, bird watchers and residents alike.

The town managed to start repairing the damage on their side of the bridge immediately upon being informed there was a problem. We do not understand why the Trustees can't move with the same sense of urgency.

Thank you!

Thomas P. Ross
Senior Vice President

thomas.ross@axiscapital.com

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Dike Bridge

1 message

Susie Lindenberg <susielindy@optonline.net>

Thu, Jan 19, 2023 at 10:53 AM

To: ssemine@cbi.org

Cc: Rachel Self <rms@attorneyself.com>

Thank you for this working group. As a resident of Cape Poge - but with my beach goer hat on - I must say that I agree with Rachel on heavy concerns regarding the disrepair of the Dike Bridge.

This subject is absolutely a matter of importance for the beach access discussion and not sure why it was disregarded as such. It is also obviously a huge matter of importance to the Cape Poge residents. I'm confused why Darci was able to write it off as caused by the recent storm. The bridge has been in disrepair and the residents have been asking for repairs from the trustees for years. It is because there has been no attention or response that the storm further caused much additional damage.

There is no discussion of access without a long term safe travel route over the Dike - so I also have the question of the status of repair and long term plan here.

Thank you so much for all of your work and all that the trustees do.

Susie Lindenberg
203-984-4928

Regular high tide
8:03AM 1/16/23







Exposed metal ties.



Large holes and bulkhead in severe disrepair



Exposed metal ties.

