

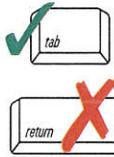
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE 12 - 759
MassDEP File #
eDEP Transaction #
Chilmark
City/Town

A. General Information

Please note: this form has been modified with added space to accommodate the Registry of Deeds Requirements

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



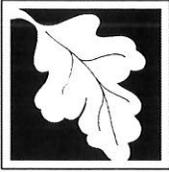
1. From: Chilmark Conservation Commission

2. This issuance is for (check one): a. [X] Order of Conditions b. [] Amended Order of Conditions

3. To: Applicant: Squibnocket Farm, Inc.
a. First Name b. Last Name
c/o Daniel Padien; VHB, Inc.
c. Organization
99 High Street; 10th Floor
d. Mailing Address
Boston MA. 02110
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):
See attached list
a. First Name b. Last Name
c. Organization
d. Mailing Address
e. City/Town f. State g. Zip Code

5. Project Location:
Squibnocket Rd. Chilmark
a. Street Address b. City/Town
Map 35 Lots 1.30, 17.3, 17.4, 21, 22, 23
c. Assessors Map/Plat Number d. Parcel/Lot Number
Latitude and Longitude, if known: N41d31m858s W70d76m568s
d. Latitude e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 County of Dukes County 9733
 a. County b. Certificate Number (if registered land)
691 254
 c. Book d. Page
7. Dates: 12/23/15 5/25/16
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
See attached list
 a. Plan Title
- b. Prepared By c. Signed and Stamped by
- d. Final Revision Date e. Scale
- f. Additional Plan or Document Title g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Owners List

Squibnocket Farm, Inc.

279 Great Plains Road
Tisbury, MA 02575

Vineyard Open Land Foundation

232 Main St
Vineyard Haven, MA 02568

Town of Chilmark

401 Middle Road
PO Box 119
Chilmark, MA 02535

Squibnocket Farm, Inc.; SE 12 – 759

List of Plan Documents

1. Squibnocket Farms Erosion Control and Resource Area ERC-1:
December 18, 2015; Revised 1/15/16
2. Squibnocket Farms Proposed planting Plan L-1
March 8, 2016; Revised March 31, 2016
3. Squibnocket Farms Proposed Conditions and Resource Areas PC-1
December 18, 2015
4. Proposed Bridge Design; Childs Engineering Corp. SK-02
December 3, 2015
5. Squibnocket Farms, Inc. Managed Retreat Narrative
March 4, 2016
6. Haley Aldrich Proposed managed Retreat Site Plan Figure MR-1
May 2016
7. Squibnocket Farms Access Project Preliminary Construction Phase Mitigation Measures
May 18, 2016



Attachment A

Notice of Intent Narrative

VHB is submitting this Notice of Intent on behalf of Squibnocket Farm, Inc. ("Squibnocket Farm" or the "Proponent") pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Chilmark Wetlands Protection Bylaws. This Notice of Intent seeks authorization for the construction of a replacement vehicular access from Squibnocket Road, past the site of the existing parking lot, to the private portion of Squibnocket Farm Road on the pond-side of Money Hill (the "Project Site"). As described in detail below, the proposed replacement means of access consists of an at-grade roadway approximately 235 feet in length (with one portion approximately 225 feet in length on the northern side of the site and another portion of approximately 10 feet in length on the southern side of the site) (the "Roadway") and a pile-supported low causeway approximately 330 feet in length (the "Low Causeway" and together with the Roadway, the "Access Project" or "Project").

The design of the Access Project as presented in this Notice of Intent is consistent with the final recommendations that the special Town Committee on Squibnocket (the "Committee") issued in December, 2014 and approved by Town Meeting vote on February 2, 2015 (the "Committee Recommendations").¹ The consistency of the design with the Committee Recommendations was affirmed by unanimous vote of the Chilmark Board of Selectmen at its public meeting on December 15, 2015.²

¹ In addition to recommending the Access Project, the Committee also recommended projects that the Town of Chilmark would pursue to enhance and improve the Town's existing beach and boat launch facilities, as well as the parking serving those facilities (the "Town Project"). The Town Project is adjacent to, but geographically separate from the Access Project, and will be the subject of separate permitting processes to be pursued by the Town. This NOI seeks authorization to construct and maintain the Access Project only. Any related work associated with the Town Project will be described by the Town's anticipated Notice of Intent.

² For a detailed discussion of the Committee Recommendations and the Committee process more generally (including the alternatives analysis performed by the Committee), please see the Environmental Notification Form submitted jointly by the Proponent and the Town of Chilmark on October 18, 2015 (EEA Number 15428) (the "ENF") to the Secretary of Energy and Environmental Affairs pursuant to the Massachusetts Environmental Policy Act.



Introduction

Squibnocket Farm respectfully submits this Notice of Intent (NOI) application to the Chilmark Conservation Commission (the "Commission") seeking an Order of Conditions (OOC) that would:

1. With respect to the Roadway, authorize construction and future maintenance of an at-grade paved roadway approximately 235 feet in length and of minimum acceptable width and maximum slope consistent with the Town of Chilmark design guidelines. The Roadway is proposed to be constructed within local and state-regulated wetland resource areas and buffer zones as described below.
2. With respect to the Low Causeway, authorize the construction and future maintenance of a pile-supported low causeway with a width of approximately 12-feet and with clearance ranging from 0 feet above the existing grade where the Low Causeway meets the Roadway to approximately 9 feet above the existing grade for the majority of the span.³ The Low Causeway is proposed to be constructed within local and state-regulated wetland resource areas, most notably Bordering Vegetated Wetlands (BVW) and Land Subject to Coastal Storm Flowage (LSCSF) as described in detail below.
3. Confirm that the Project meets the regulatory criteria for a Variance under the applicable provisions of the Chilmark Wetlands Protection Bylaw and Regulations.

The work proposed in this NOI includes mitigation measures selected to avoid, minimize and mitigate potential impacts to local and state-regulated wetland resource areas to the extent practicable. As a result of these measures, the Project will result in a substantial net benefit to the Squibnocket barrier beach system by moving the vehicular access back from the beach approximately 100 to 260 feet and elevating it on a pile-supported structure approximately 0 - 9 feet above the existing wetlands.

The work proposed in this NOI will not result in the loss of any local or state-regulated wetland resource areas or the placement of any permanent fill within any such resource areas or buffer zones. The proposed 12-inch diameter piles supporting the causeway *cumulatively* will occupy a *de minimis* 25± square feet of BVW. Furthermore, the Low Causeway has been designed to avoid and minimize the potential shading effects on the BVW. As described below, a detailed shadow analysis was conducted for the Project confirming that the BVW beneath the Low Causeway will be in full sunlight an average of 75 percent of the primary daylight

³ Note that the Low Causeway will have a lowest horizontal member will be set at approximately Elevation 10.8 and a driving deck set at approximately Elevation 13.0.



hours on the study date of June 21. June 21st was chosen as the study date for the shadow analysis because it falls at the height of the growing season, is the longest day of the year, and has the highest sun angle of the year. Because the study has demonstrated that the Low Causeway will cast shadow on the underlying BVW for an insignificant portion of this longest day, the cumulative shadow impacts during the full course of the growing season likewise can be expected to be insignificant.

Furthermore, the design of the Low Causeway is consistent with available scientific data that suggests that pile-supported structures do not create sufficient shading to reduce plant productivity when the structure's height to width ratio (H/W) is at least 0.7. In other words, when a pile-supported structure is at least 70 percent as high as it is wide, available data suggest that there is no measurable diminishment of plant biomass in an underlying emergent wetland.⁴ The approximate H/W ratio for the Low Causeway is approximately 0.89 or 89% high as it is wide.

No fill is proposed within BVW. The placement of fill at the Project Site is limited to grading necessary for construction of the Roadway—on the hillside between Squibnocket Pond and Squibnocket Road, all of which falls within the buffer zone and not resources areas, and on the landward side of Money Hill, which is within Coastal Bank and LSCF. These modest fill activities fully comply with the all applicable performance standards for work in the applicable resources.

The proposed Project has been designed to fully comply with all applicable provisions of the Massachusetts Wetlands Protection Act and either complies with all of the corresponding Town of Chilmark standards or meets the criteria for a variance from local standards as described below. Accordingly, VHB, on behalf of Squibnocket Farm, respectfully requests that the Commission issue an Order of Conditions authorizing the Project under the provisions of 310 CMR 10.00 and the Chilmark Wetland Regulations Section 1.06(8).

Wetland Resource Areas

The wetland resource areas described below were confirmed by the Commission in its Final Order of Conditions issued jointly under the Act and Bylaw on July 15, 2015 under DEP File No. SE 12-743.

The Project site is located between Squibnocket Beach and the eastern shoreline of Squibnocket Pond.

⁴ Source: S.W.Broom, C.B. Craft, S.D. Struck, M. Sandlements. *Effects of Shading from Bridges on Estuarine Wetlands*. CTE/NC DOT Joint Environmental Research Program. June, 2005. Report No. FHWA/NC/2003-07



The general area of the Project site includes the following local and state-regulated wetland resource areas:

- Bordering Vegetated Wetlands
- Coastal Bank
- Land Subject to Coastal Storm Flowage
- Barrier Beach
- Coastal Dune
- Land Subject to Tidal Action

These wetland resource areas are defined consistent with the Massachusetts Wetlands Protection Act Regulations and the Town of Chilmark Wetlands Regulations ("Chilmark Regulations"), as described in the NOI filed on June 26, 2015 for a preliminary (design) phase of the Project, and as confirmed in the Commission's Order of Conditions issued on July 15, 2015 under DEP File No. SE 12-743.

Proposed Work in Wetland Resource Areas

Work proposed within local and state-regulated wetland resource areas as part of the Access Project includes the following activities as needed:

- Excavation;
- Grading;
- Placement of Fill;
- Erosion and Sedimentation Control ;
- Paving; and
- For the Low Causeway only, installation of approximately thirty-two (32) steel pipe piles and approximately 330 linear feet of a concrete deck (with utilities contained therein) with timber railings.

The text below provides detail on how the Access Project will be constructed. Short-term and permanent impacts to resource areas and buffer zones are listed in Table 1.

Roadway Construction

The construction of the Roadway will include the following activities within state and locally-regulated wetland resource areas:

- Vegetation clearing:
 - 9,300 SF of Coastal Bank between Squibnocket Pond and Squibnocket Road;



- 400 SF of Coastal Bank and 100-foot buffer zone on the landward side of Money Hill;
- Shallow excavation, grading and preparation of a suitable subgrade for approximately 235 linear feet of roadway followed by placement of pavement for a width of approximately 12 feet;⁵
- Placement of fill, grading and revegetation of approximately 0.3 acres of land between Squibnocket Pond and Squibnocket Road to serve as side-slopes;
- Installation of erosion and sediment controls along the limit of work and as needed along exposed slopes to adequately control erosion during the construction period; and
- Revegetation of the disturbed areas by utilizing seeding or selected landscape plantings to reestablish a protective vegetative cover at the site.

Low Causeway Construction

The Low Causeway will be constructed in stages to avoid and minimize potential impacts to BVW. Vegetation clearing will be completed at the Project Site for each epoxy-coated steel pile to facilitate construction of the Low Causeway. Clearing will be strictly limited to the approximate footprint of each pile to avoid unnecessary impacts.

Pile-driving activities at the Project Site will be assisted by use of wheel or tracked-mounted crane with an approximately 40-foot long boom to further minimize potential BVW impacts. Pile-cap installation and construction of the causeway will be supported by similar long-reach machinery to reduce impacts to the extent practicable.

Potential BVW impacts anticipated during construction are limited to temporary trampling of scrub and herbaceous vegetation. Temporary impacts to the surface of the BVW are expected to be minimal due to the high sand content of the soil in the BVW area. The substrate consists largely of sand and cobbles deposited by storm overwash containing minimal organic content. Accordingly the substrate is expected easily accommodate the tracked or wheeled machinery needed to construct the Low Causeway with no permanent impacts (but for the ±25 square feet of permanent BVW impacts resulting from the pile installations).

⁵To accommodate the turning radius of a WB-40 truck, the Proponents have proposed paved shoulder at the curves along the Roadway to provide adequate driving surface. At the curved portions of the Roadway, the width is proposed to be approximately 14 feet.



Wetland Impacts

The Project will require work in local and state-regulated wetland resource areas for temporary construction access and construction of permanent Project elements. Table 1 describes the footprint of work within each local and state regulated wetland resource area. The locations of proposed wetland alterations are shown on the Project plans.

Table 1 Summary of Proposed Wetland and Buffer Zone Impacts

Project Element	Resource Area	Impacts (SF)
<u>Roadway</u>	Coastal Beach	0
	Coastal Bank	9,300 (210 LF)
	Barrier Beach	0
	Coastal Dune	0
	Bordering Vegetated Wetland	0
	Inland Bank	0
	LSCSF	9,700
<u>Low Causeway</u>	Coastal Beach	0
	Coastal Bank	400 (25 LF)
	Barrier Beach	0
	Coastal Dune	0
	Bordering Vegetated Wetland	25 (permanent) 2,800 (temporary)
	Inland Bank	0
	LSCSF	30

Mitigation Measures

The Project has been designed and will be constructed to avoid, minimize and mitigate potential impacts to local and state regulated wetland resource areas to the extent practicable. While the Project will result in a substantial net benefit to the barrier beach system in which it is situated, short-term construction related and long-term design and operational mitigation measures are proposed to minimize the potential impact to regulated resource areas. These measures are summarized in this section of the NOI.



Construction Phase Mitigation Measures

The Project will include the following construction-phase mitigation measures:

Erosion and Sedimentation Controls

An erosion and sedimentation control program will be implemented to minimize temporary impacts to wetland resource areas during the construction phase of the Project. The Project incorporates Best Management Practices (BMPs) specified in guidelines developed by DEP⁶ and the U.S. Environmental Protection Agency (EPA)⁷.

The following sections describe the controls that will be used and practices that will be followed during construction. These practices comply with practices recommended in EPA's NPDES General Permit for Discharges from Large and Small Construction Activities, even though the project does not require a construction period NPDES permit.

Non-Structural Practices

Non-structural practices to be used during construction include temporary stabilization, pavement sweeping and dust control. These practices will be initiated as soon as practicable in appropriate areas at the Project Site.

Temporary Stabilization

Areas of exposed soils are anticipated to be minimal during this phase of the Project. Any areas of exposed soil will fall within previously-paved areas and will be covered with a layer of gravel to stabilize the soils and allow continued construction access by equipment.

Pavement Sweeping

The roads and parking areas shall be swept as needed during construction. The sweeping program will remove sediment and foreign materials directly from paved surfaces before any release into stormwater runoff. Pavement sweeping has been demonstrated to be an effective initial treatment for reducing pollutant loading into stormwater.⁸

⁶ DEP, 1997. *Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas: A Guide for Planners, Designers, and Municipal Officials*.

⁷ EPA, 2007. *Interim Developing Your Stormwater Pollution Prevention Plan: A Guide for Construction Sites*. Office of Water. Report EPA 833-R-060-04.

⁸ U.S. Environmental Protection Agency, 1979. *Demonstration of Nonpoint Pollution Abatement Through Improved Street Cleaning Practices*.



Dust Control

Dust may be generated from areas of disturbed soil; however any dust is expected to be negligible and would not result in deposition in wetland resource areas. The erosion and sediment control program includes provisions to minimize the generation of dust during dry and windy conditions. When necessary, larger areas of exposed soil and building materials will be wetted to prevent wind-borne transport of fine grained sediment. Enough water shall be applied to wet the upper 0.5 inches of soil. The water will be applied as a fine spray in order to prevent erosion.

Structural Practices

Structural erosion and sedimentation controls to be used on the site include barriers and stabilized construction exits.

Erosion Control Barriers

Prior to any construction, an approved erosion control barrier will be installed at the down gradient limit of work as shown on the plans. As construction progresses, additional barriers will be installed around the base of construction material stockpiles and other erosion prone areas as needed.

If sediment has accumulated to a depth which impairs proper functioning of the barrier, it will be removed by hand or by machinery operating upslope of the barriers. This material will be either reused at the Site or disposed of at a suitable offsite location. Any damaged sections of the barrier will be repaired or replaced immediately upon discovery.

Stabilized Construction Exits

Stone anti-tracking pads will be installed at each access point to the work area to prevent the offsite transport of sediment by construction vehicles. The locations of these pads will change as-needed to support the progression of work. The stabilized construction exits will be at least fifty feet long and will consist of a 4-inch thick layer of crushed stone (1.5 to 2.5 inches in diameter). The stone will be placed over a layer of non-woven filter fabric.

Design and Operational Mitigation Measures

The Project has been designed to avoid and minimize potential impacts to the coastal and inland wetlands at the Project Site to the extent practicable. Indeed, the entire Project represents a substantial improvement over existing conditions through moving the vehicular access approximately 100 to 260 feet landward of the existing



shoreline and, by making it possible for the Town, through the Town Project, to remove of the existing stone revetment and sand concrete parking lot.

Additionally, the Roadway has been designed to follow, to the extent practicable, the existing contours of the landscape. This design means that the Roadway is primarily in the buffer zone, as opposed to the current location of Squibnocket Road within state and local regulated resources.

The Roadway includes stormwater management features designed to collect and treat runoff from the paved surface including a grassed swale and a bio-retention swale. These swales will promote pollutant attenuation and infiltration. The Project complies with the applicable provisions of the Massachusetts DEP Stormwater Management Regulations stipulated in the Massachusetts Wetlands Protection Act regulations. A completed Stormwater Management Form and narrative is provided as an attachment to this NOI.

The Low Causeway is itself a mitigation measure. It has been designed to fly-over the wetland resources at the Project Site, specifically the BVW adjacent to Squibnocket Pond, rather than occupy the wetlands. Traversing this BVW on an at-grade or filled roadway would require significant BVW filling and permanent losses of this resource. Although the fly-over approach does create a risk of shading impacts (which are obviously less damaging than filling impacts), the Low Causeway has been designed to eliminate adverse shading impacts to BVW.

Regulatory Compliance

The Access Project is proposed to occur within the following local and state-regulated wetland resource areas:

- Land Subject to Coastal Storm Flowage
- Coastal Bank
- Bordering Vegetated Wetlands
- Barrier Beach

This section describes how work in each of these resource areas complies with the applicable local or state performance standard.

Land Subject to Coastal Storm Flowage

The WPA does not establish any performance standards for work in Land Subject to Coastal Storm Flowage.



The Chilmark Wetlands Regulations at Section 2.10(2) establish four standards governing work in Land Subject to Coastal Storm Flowage. The Project complies with each standard, as explained in this section.

(A) The work shall not reduce the ability of the land to absorb and contain floodwaters, or to buffer inland areas from flooding and wave damage.

The work will not result in any long-term impacts to Land Subject to Coastal Storm Flowage or reduce the ability of the land to absorb and contain floodwaters.

(B) Projects shall be designed in such a way to protect ground, surface, or salt water from pollution triggered by coastal storm flowage. All newly constructed septic tanks and leach facilities shall be outside the 100 year floodplain unless the Commission is presented with documentation by a Registered Professional Engineer or Health Sanitician which documents that the waste disposal system would eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.

The Project Site is anticipated to periodically flood; however, no pollution would be triggered by coastal storm flowage because the Project Site area does not contain any septic tanks, leach fields, or sewer lines.

(C) Septic systems are prohibited in the velocity zone.

This standard does not apply to the Project because no new septic system is proposed.

(D) The proposal shall not alter land subject to coastal storm flowage which is significant to wildlife and their habitats.

The Project will alter approximately 9,750 SF of Land Subject to Coastal Storm Flowage that has been identified by the Massachusetts Natural Heritage Program as Estimated Habitat for the state-listed northern harrier (*Circus cyaneus*). The proposed alterations represent a *de minimis* portion of the Estimated Habitat and will occur in the context of a Project that, once completed, results in a substantial net benefit to the potential use of the site by this species. This is because the roadway serving Squibnocket Farm will be elevated above the habitat rather than embedded in the habitat, and because the Project will enable the Town to remove the existing stone revetment and sand concrete parking lot. As a result of this substantial net benefit, the Project is not anticipated to result in a "take" or have any adverse impact to northern harrier habitat.

As required by the state regulations, a copy of this NOI has been sent to the Massachusetts Natural Heritage Program. As discussed below, Natural Heritage has indicated during pre-application consultation that it concurs that the Project will not have an adverse habitat impact.



Coastal Bank

The WPA distinguishes between Coastal Banks that serve as a sediment source and Coastal Banks that serve as a vertical buffer. The Coastal Bank where work is proposed is located between Squibnocket Road and Squibnocket Pond, downslope from the road. This Coastal Bank is densely vegetated and does not serve as a sediment source for any Coastal Beach. It does, however, serve as a vertical buffer to stormwater. Accordingly, the following performance standards at 310 CMR 10.30(6) through (8) apply.

(6) Any project on such a coastal bank or within 100 feet landward of the top of such coastal bank shall have no adverse effects on the stability of the coastal bank.

The proposed work in Coastal Bank will occur in a densely vegetated area which does not serve as a sediment source for any Coastal Beach. The work will not affect the natural stability of the Coastal Bank. The Project complies with this performance standard.

(7) Bulkheads, revetments, seawalls, groins or other coastal engineering structures may be permitted on such a coastal bank except when such bank is significant to storm damage prevention or flood control because it supplies sediment to coastal beaches, coastal dunes, and barrier beaches.

The Project does not include any bulkhead, revetment, seawall, groin or other coastal engineering structure. The Low Causeway will be constructed on epoxy-coated steel piles with concrete slabs at its ends to avoid the use of bulkheads or other hard structures. The Project, once completed, will enable the Town's removal of the existing revetment system. The Project complies with this performance standard.

(8) Notwithstanding the provisions of 310 CMR 10.30(3) through (7), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.37.

The Project Site is located within Estimated Habitat of the northern harrier. Based on habitat evaluations by VHB environmental scientists and pre-filing consultation with Massachusetts Natural Heritage staff, however, no adverse effects on the habitat of the northern harrier are anticipated to result from the project. A copy of this NOI has been provided to the Massachusetts Natural Heritage Program as required.

The Chilmark Wetlands Regulations, Section 2.05(3), prohibit all alterations to Coastal Bank or within 100 feet of a Coastal Bank, except the maintenance of an existing structure or construction of a new structure pursuant to a variance to this provision granted under Section 5.01 and described in Section 2.05(4). Consistent with the Committee Recommendations, the alignment of portions of the Access Project intersects Coastal Bank; therefore, the Project involves minor alteration of Coastal



Bank. (The standard for the issuance of variances, and the compliance of the proposed Project with this standard, is addressed below in the section entitled "Request for Variance.")

Section 2.5(3) (B) provides:*(B) Any project on a coastal bank or within 100 feet landward of the top of a coastal bank, other than a structure permitted by [variance issued pursuant to] Section 2.05(4)(a), shall not have an adverse effect on the movement of sediment by wave action from the coastal bank to coastal beaches or land subject to tidal action.*

The proposed work in Coastal Bank will occur in a densely vegetated area that does not serve as a sediment source for any Coastal Beach. The work will not affect the natural movement of sediment by wave action and therefore complies with this standard.

Bordering Vegetated Wetlands

The WPA regulations and the Chilmark Wetlands Bylaws each establish performance standards for work in Bordering Vegetated Wetlands. The following sections summarize the local and state standards for work in this resource area and describe the Project's compliance with these standards.

Wetlands Protection Act Standards (BVW)

The WPA regulations at 310 CMR 10.55(4) establish four (4) performance standards for work in Bordering Vegetated Wetlands. The following section provides a summary of these standards and describes how the Project complies with each.

- (a) ...proposed work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of said area.*

The Project will result in the permanent loss of approximately 25 SF of BVW through the installation of 32 steel pipe piles. The size, number, and spacing of the piles are intended to minimize the area of BVW impact to the greatest extent feasible, and to allow normal function of the BVW during and after construction.

The project will result in temporary impacts to approximately 2,800 SF of BVW during construction due to pile installation using a tracked crane-mounted pile driver. Temporary impacts are expected to be limited to trampling of vegetation by the equipment. No temporary or permanent excavation or placement of fill within BVW is proposed. The surficial substrate within the BVW at Project Site is of high mineral content because it is subject to periodic overwash of sand and cobbles during storm events. Geotechnical excavations completed during September 2015 confirmed the



content of these soils, and also that tracked equipment could operate within the on-site BVW without long-term impacts to the resource area. Based on the geotechnical results and the recent direct experience observing the temporary and reversible impacts that tracked equipment has on BVW at the site, no use of swamp mats or other temporary stabilization of the BVW is anticipated.

(b) Notwithstanding the provisions of 310 CMR 10.55(4)(a), the issuing authority may issue an Order of Conditions permitting work which results in the loss of up to 5000 square feet of Bordering Vegetated Wetland when said area is replaced in accordance with the following general conditions and any additional, specific conditions the issuing authority deems necessary to ensure that the replacement area will function in a manner similar to the area that will be lost:

The Low Causeway, as a pile-supported structure, has the potential to indirectly impact BVW through the casting of shade; however, the Low Causeway has been designed to be sufficiently elevated above the BVW so as to avoid adverse shading impacts, as demonstrated by the shadow analysis described below. Furthermore, the north-south alignment of the Low Causeway necessarily reduces any shadow impacts because of the ability of sunlight to penetrate under the span at most times of day.

Potential shading impacts to BVW were examined in two ways:

1. Review of applicable scientific studies addressing bridge shading effects of vegetated wetlands, and
2. A shadow study using a digital terrain model based on actual field survey and a three-dimensional CAD model of the Low Causeway to estimate the duration of shadows cast on the BVW beneath the Low Causeway.

The following describes our review of these data.

Pile-Supported Structure Shading Studies

Detailed studies⁹¹⁰¹¹ of the shading effects by elevated structures indicate:

- There is a strong statistical correlation between height/width ratio of a pile-supported structure and shading effects beneath. This is an inverse correlation: the higher the ratio, the less the structure will have a shading impact.

⁹ Broome, W.S., C.B. Craft, S.D. Struck and M. SanClements, 2005. Effects of Shading from Bridges on Estuarine Wetlands Final Report. Center for Transportation and the Environment, N.C. State University for U.S. Department of Transportation and North Carolina Department of Transportation.

¹⁰ Ibid, (Slide Presentation) <http://slideplayer.com/slide/4526350/>

¹¹ Struck, S.D., CB Craft, S.W. Broome, M.D. SanClements and J.N. Sacco, 2004. Environmental Management 8/2004 34(1): 99-111



A pile supported structure that is at least 70 % as high as it is wide will have no measurable shading effects on plant biomass underneath the structure. The Low Causeway is approximately 89 % as high as it is wide (based on the weighted average of the height above existing grade of the Low Causeway portions located over the BVW); therefore, based on the studies cited in this NOI, the Low Causeway is not likely to have a measurable shading impact on the BVW under the Low Causeway.

Project Shadow Analysis

The project team used a digital terrain model to examine potential shadows cast within the Low Causeway footprint on a study date of June 21. The analysis used the following data:

- Actual field survey of the Project Site conducted by Vineyard Land Survey and Engineering on June 9, 2014 provided in 1-foot contoured intervals;
- Three-dimensional digital terrain model;
- Three-dimensional CAD causeway design, and
- Standard sun azimuth/altitude for June 21
 - Sunrise: 5:10 AM
 - Sunset: 8:20 PM
 - Length of day: 15 hours, 10 minutes

A 3D shadow simulation was run for the entire study day yielding the following results:

2. The BVW underlying the footprint of the Low Causeway will be shaded for exactly 4 hours on June 21.
 - The leading edge of the shadow falls within the Low Causeway footprint at precisely 8 AM. By 12 noon, the leading edge has reached the eastern edge of the causeway and at that point the entire footprint is within shade cast by the project.
 - At 12:01 PM, the trailing edge of the shadow begins to move under the causeway.
 - By 4 PM, the trailing edge is at the eastern-most footprint, outside the Low Causeway footprint.
 - None of the BVW beneath the Low Causeway will be in shade for more than 4 hours on the study day.
3. Project shading under the Low Causeway represents 4 hours out of a possible 15 hours and 10 minutes of potential sunlight. Accordingly, the BVW beneath the Low Causeway will receive up to 75 % of the available sunlight notwithstanding the presences of the structure.



Conclusion

Based on the shadow study, we conclude that the BVW beneath the Low Causeway will receive sufficient amounts of sunlight during a substantial portion of the day during the growing season, such that the shading is not anticipated to result in a loss of BVW. This conclusion is consistent with the literature studies, which indicate that a structure with a height-width ratio of at least 70% will have tolerable shading impacts on underlying vegetation. The Project's permanent BVW impacts will be limited to the ± 25 s.f. of BVW occupied by the piles.

- (c) *Notwithstanding the provisions of 310 CMR 10.55(4)(a), the issuing authority may issue an Order of Conditions permitting work which results in the loss of a portion of Bordering Vegetated Wetland when;*
- 1. said portion has a surface area less than 500 square feet;*
 - 2. said portion extends in a distinct linear configuration ("finger-like") into adjacent uplands;*

This performance standard does not apply to the Project because no work in proposed in the vicinity of any "finger-like" linear configurations of BVW.

- (d) *Notwithstanding the provisions of 310 CMR 10.55(4)(a),(b) and (c), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.59.*

The Project Site is located within mapped Estimated Habitat of the rare vertebrate species northern harrier. Based on preliminary habitat review and pre-filing consultation with Massachusetts Natural Heritage staff, no adverse effect on the habitat of this species is anticipated. As required by regulation, a copy of this NOI has been sent to the Natural Heritage Program.

- (e) *Any proposed work shall not destroy or otherwise impair any portion of a Bordering Vegetated Wetland that is within an Area of Critical Environmental Concern designated by the Secretary of Energy and Environmental Affairs under M.G.L. c. 21A, § 2(7) and 301 CMR 12.00: Areas of Critical Environmental Concern. 310 CMR 10.55(4) (e):*

This performance standard does not apply to the Project because no portion of the Project Site is located within a mapped Area of Critical Environmental Concern.

Chilmark Wetlands Regulations Standards (BVW)

The Chilmark Regulations at Section 3.02(3) prohibit all activities, other than the maintenance of an already existing structure or activities authorized by variance, which result in alterations to vegetated wetlands. Section 3.02(4) allows the



Commission to issue a variance pursuant to Section 5.01 provided that the work does not impair the vegetated wetland's ability to perform any of the functions set forth in Section 3.02(2). (The Project's eligibility for a variance is further discussed below.) The Project will not have an adverse effect upon any of the interests protected by the Chilmark Regulations because it has been designed to avoid and minimize potential impacts to BVW through the use of a pile-supported causeway. The use of piles to elevate the roadway rather than fill to locate the roadway at grade in the BVW will not only avoid extensive fills for the road itself, but also allows the Town to remove the existing stone revetment and to relocate the existing parking lot off the barrier beach in an effort to restore the natural function of the wetland. Whether viewed alone or in combination with the Town Project, the Project will have no adverse effect on the BVW's ability to function.

Barrier Beach

The WPA regulations at 310 CMR 10.29 and the Chilmark Regulations (Section 20.4) each establish performance standards for work on Barrier Beaches. The following sections provide a summary of the standards applicable under each of the WPA and the Chilmark Regulations, and describe the Project's compliance with applicable standards.

Wetlands Protection Act Standards (Barrier Beach)

The WPA regulations at 310 CMR 10.29 establish the following two (2) performance standards for work on Barrier Beaches:

(3) When a Barrier Beach Is Determined to Be Significant to Storm Damage Prevention, Flood Control, Marine Fisheries or Protection of Wildlife Habitat. 310 CMR 10.27(3) through (6) (coastal beaches) and 10.28(3) through (5) (coastal dunes) shall apply to the coastal beaches and to all coastal dunes which make up a barrier beach.

This standard does not apply to the Project because no work is proposed within any Coastal Beach or Coastal Dune.

(4) Notwithstanding the provisions of 310 CMR 10.29(3), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.37.

The Project Site is located within mapped Estimated Habitat of the rare vertebrate species northern harrier. Based on preliminary habitat review and pre-filing consultation with Massachusetts Natural Heritage staff, the Project is not anticipated to have any adverse effects on this species. As required by regulation, a copy of the NOI has been sent to Natural Heritage, which is expected to recommend that the



Commission impose a time-of-year restriction for the commencement of construction activities within northern harrier habitat.

Chilmark Wetlands Regulations Standards (Barrier Beaches)

The Chilmark Regulations at Section 2.04(4) establish the following regulations for work on Barrier Beaches:

(A) Fill may be used only if the Commission authorizes its use and only if such fill is to be used for beach and dune nourishment projects.

No fill is proposed within any Barrier Beach. The approximately 235 linear feet of proposed at-grade roadway will be located on land of glacial origin and outside of the geographic limits of the Barrier Beach. The southern end of the causeway will be located on Money Hill, also of glacial origin, rather than coastal dune or other such glacially ephemeral deposits making up the adjacent barrier beach. Furthermore, no net fill is proposed at the southern end of the causeway. The connection between the Low Causeway and the adjacent land will be accomplished through the use of a concrete slab designed to avoid fill and the use of coastal engineering structures and to allow the Low Causeway to connect to the Roadway without the need for additional fill or structural work if and as the landform changes in the future.

(B) Excavation of sand around existing houses may be permitted, but no new projects shall be permitted which will require periodic sand removal for maintenance. All disturbed areas (including blowouts) shall be stabilized through planting of vegetation. The excavated sand must be retained in the area and be a part of the barrier beach.

The Project is designed to allow for natural sediment migration, either initially or during the maintenance of the Project, and does not include any sand excavation or removal from the Barrier Beach. Any areas disturbed during construction will be stabilized and revegetated upon completion of the work.

(C) Vehicular access for existing houses, fishing areas, or shellfishing areas shall be done in accordance with such procedures as the Commission determines will minimize any adverse effect on the beach.

No new vehicular access is proposed. The Access Project will replace the existing vehicular access that has been present at the site for more than 100 years.

(D) Projects such as Pond openings for the enhancement of fisheries and shellfisheries may be permitted if they are performed in a manner which will not permanently adversely affect the interests of storm damage prevention and flood control, wildlife and wildlife habitat (see DEP Policy 91-2).



This standard is not applicable to the Project because no pond openings are proposed.

Request for Variance under Chilmark Wetlands Regulations

Section 5.01(A) of the Chilmark Regulations allows the Commission to issue a variance if the following condition is met:

"...upon a clear and convincing showing by the applicant that any proposed work, or its natural and consequential impacts and effects, will not have an adverse effect upon any of the interests protected in the Bylaws."

Section 1.01(2) defines the interests of the Chilmark Regulations to include the following:

- *public water supply*
- *private water supply*
- *groundwater and groundwater quality*
- *water quality in the numerous ponds in the Town*
- *flood control*
- *erosion and sedimentation control*
- *storm damage prevention*
- *recreation*
- *fisheries*
- *shellfish*
- *wildlife and wildlife habitat*
- *agriculture and aquaculture*

Apart from the *de minimis* loss of ± 25 s.f. of BVW, which will be more than offset by the Project's many beneficial effects on wetland resources at the Project Site, the Project will not result in the permanent loss or degradation of any local-regulated wetland resource area and will not have any adverse effect on any interest protected by the Chilmark Wetlands Protection Bylaws. No long-term adverse impacts to any locally-regulated resource area are anticipated. None of the form, function, vegetative cover, or other characteristics of the resource areas will be substantively altered by the exploratory activities described in this NOI, except in a positive way.

Conclusion

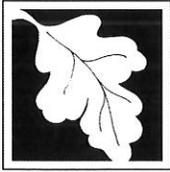
VHB, on behalf of Squibnocket Farm, Inc., respectfully requests that the Chilmark Conservation Commission issue an Order of Conditions pursuant to the Massachusetts Wetlands Protection Act and the Chilmark Wetlands Protection Bylaws authorizing the following activities at the Project Site:





- Construction and maintenance of an approximately 235 linear foot Roadway connecting Squibnocket Road with the Low Causeway; and
- Construction and maintenance of a 12-foot wide, 330 foot long pile supported concrete deck one-lane Low Causeway traversing the BVW adjacent to Squibnocket Pond.

Based on the foregoing regulatory analysis, these activities comply with all applicable local and state performance standards for work in the wetland resource areas present at the Project Site, as those areas are delineated in a Notice of Intent submitted to the Chilmark Conservation Commission under DEP File No. SE 12-743 and approved by the Commission through its Order of Conditions issued on July 15, 2015.



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 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
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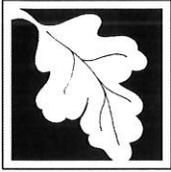
B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	25 _____ a. square feet	25 _____ b. square feet	0 _____ c. square feet	0 _____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	9730	9730		
	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	_____	_____		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. Stream Crossing(s):

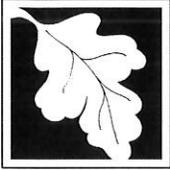
a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE 12 - 759 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
 - (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
 - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached Chilmark Order of Conditions SE 12 - 759; May 25, 2016

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Chilmark hereby finds (check one that applies):
 Conservation Commission
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
 Chilmark Wetland Protection Bylaw _____ 1.02
 1. Municipal Ordinance or Bylaw _____ 2. Citation _____
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):
See attached Chilmark Order of Conditions SE 12 - 759; May 25, 2016

CHILMARK ORDER OF CONDITIONS SE 12 – 759
MAY 25, 2016

Introduction

This project concerns the construction of an access roadway and elevated causeway (together the 'Project'). The resource areas impacted are: coastal bank, BVW and land subject to coastal storm flowage.¹ The precise square footage of resource area affected is stated in the Order of Conditions.

Coincident with the filing of the NOI for this project was the filing of an NOI for a second project by an unrelated entity (SE-757). That project concerns the removal and relocation of a parking lot, the removal of a revetment and hard-surface roadway and the creation of a skiff launch. The resource areas impacted are: bordering vegetated wetland (BVW), coastal dune, coastal bank and land subject to coastal storm flowage.

Although there are 2 separate NOIs before the Commission, it is important to note that the two projects are complementary and interdependent. Both applicants advised that the projects would not and could not proceed unless both were approved. The Commission was advised that the applicants have negotiated various arrangements between them and with third parties which impact multiple aspects of both proposals. Accordingly, although the Commission handled these projects separately during the hearing process, its decision takes into consideration aspects of both projects as relevant to protection of the impacted resources.

Performance Standards under the Wetlands Protection Act ("Act") and the Town's Wetland Protection Regulations ("Town regulations") and

Discussion (Note: conditions appropriate to mitigate or otherwise accommodate issues raised below are set out under "**Conditions**".)

The Project will impact BVW, coastal bank and land subject to coastal storm flowage. The Commission finds that:

- The coastal bank on which the Project is proposed is densely vegetated and does not serve as a source of sediment, but as a vertical buffer providing storm damage and flood control. No adverse impact on its ability to continue to perform this function is anticipated as a result of the Project.
- The Project will not have any adverse effects on the stability of the coastal bank.
- The Project does not include any coastal engineering structure.
- The NHESP has determined the project will not adversely affect the actual resource area habitat of state-protected rare wildlife species and it will not result in a prohibited "take" of state-listed rare species.
- The only permanent destruction or impairment of BVW is limited to 25 square feet as a result of the installation of 32 steel piles. The causeway has been engineered to minimize the area impacted and to allow normal function of the BVW during and after construction. Additional impacts to

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MAY 25, 2016

BVW are limited to trampling which, given the nature of the soils, will not have any long-term effect. The applicant's shading analysis, which the Commission finds credible, indicates that the height of the causeway and its north-south orientation will avoid adverse shading impacts. The Commission considers any impairment to BVW to be de minimis. See further discussion under "Replication".

- Because of the limited extent of permanent BVW loss/impairment, the Project will not impair the ability of the BVW to protect the interests of wildlife and wildlife habitat, water supply, flood control, storm damage prevention, pollution prevention, protection of fisheries and shellfish.
- In view of the fact that the causeway is elevated, the Project will not reduce the ability of the land to absorb and contain floodwaters, or to buffer inland areas from flooding and wave damage.
- The proposal to deal with storm water run-off is adequate to compensate for any reduced permeability of the access road.
- The pitched runoff system on the paved connector from Squibnocket Road running to the causeway is properly channeled into the planned drainage swale to the east of the connector and toward the Town's new parking lot.
- The run-off system (grassed swale and bio-retention swale) will promote pollutant attenuation and infiltration and therefore protect ground, surface and salt water from pollution.
- Areas adjacent to the access roadway that will be disturbed during construction will need to be re-vegetated so as to completely and successfully restore and stabilize the area to its original form and volume.
- The Commission finds that the proposed height of the causeway is acceptable when considered in light of the wetland resource protection issues. The height minimizes the slope of the connector roads on both ends of the causeway thus, eliminating the need for structural excavation on the coastal bank. The paved connector roads as proposed add fill and therefore do not require engineered structural solutions. Lowering the causeway would entail additional disturbance due to additional grading and excavation of land subject to coastal storm flowage and BVW to the east. Also, the causeway itself does not rest on a resource area. It has been engineered with pylons so that it does not impede the flow of ocean waters and is designed to withstand potential wash overs. The Commission accepts the Applicant's evidence that the proposed height will sufficiently protect any underlying vegetation. Requiring a lower causeway is not necessary for protection of the coastal and wetlands resources. Further, a lower causeway is likely to have other unintended and adverse consequences.

Managed Retreat – Overall Benefit of the Projects

The combined projects (SE 12 – 757 and SE 12 – 759) address the Commission's objective of managed retreat to enhance the protection of coastal wetland resources. Elements of the managed retreat are, for the most part, described in the Town's NOI. However, the relocation of the access roadway to

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an upland location more remote from the coastal bank and coastal beach is an important element of the managed retreat. Moreover, the low causeway, integral to the overall combined projects, is itself a mitigation measure and overall is an improvement over other possible resource management options as it avoids relocation of necessary access in/on (i.e. at grade) coastal and pond resource areas.

The Commission finds that the combined project elements will enable restoration of the coastal resources at the project site and adjacent vicinity. The Commission welcomes the applicants' initiatives, finding them consistent with its general policy of allowing resource areas to evolve naturally without artificial disturbances.

The Commission understands, however, that the solution proposed is not by its nature permanent, given the constant change the project site has experienced over the years with continuing and often-times significant erosion, the inevitable landward migration of the shoreline and rising sea levels. Further, the Commission believes that it is impossible at this stage to predict the rate of shoreline migration in view of the fact that aspects of the surrounding landscape are being altered and there is no history to judge how it will hold up to storm damage in the future. The Commission is persuaded that it would be appropriate to begin the 3-phased planning for further managed retreat when the mean high water approaches within 30' of the western tipping slab connection of the causeway to Squibnocket Farm Road and/or the eastern entrance to the causeway off Squibnocket Rd. The narrative and supporting plan provide sufficient time to return with a further retreat plan that can be executed in a controlled, non-emergency manner.

Alternatives

The alternatives analysis presented in the ENF filing establishes this proposal as the best solution with a de minimus impact on the resources.

Replication

Work in a BVW must not destroy or otherwise impair the area. The only permanent direct disturbance to the BVW is the 25 square feet that are displaced by the steel pilings. (Other impacts are only temporary.) Although the applicant offered to replicate lost BVW, the Commission regards the disturbance to be negligible and that the benefit of removing the current access road which runs through the Town's existing parking lot offsets any detrimental impact on this resource. This is particularly so in view of the fact that the project vicinity includes a large area of BVW encircling the entire eastern end of the pond, that this area has been increasing in size over the years due to infill from the adjacent coastal bank and dune erosion, and that it is likely to continue to do so. The Commission also notes that the project area abuts a significant coastal pond and, extending east and west for some considerable distance, coastal beach, coastal dune, barrier beach, coastal bank and land subject to coastal storm flowage. Seen in

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the context of the expanse of these extensive protected resource areas, the lost BVW is considered de minimis.

Moreover, to replicate the lost BVW in an area in the approximate vicinity of the loss would require disturbance (grading/excavation to achieve appropriate hydraulic environment), clearing and subsequent re-vegetation. It is anticipated that the replicated area would be short-lived in view of anticipated wash overs at the site.

In the Commission's view, the disturbance caused by replication is not offset by any additional BVW at the site and, in this case, does not appear to materially advance any interests protected by the Act or the Town's regulations or otherwise enhance the overall Project site resource areas. Accordingly, the Commission will not require replication.

Waiver

Although the resource area performance standards set out in the Act have been satisfied (see above discussion), the Town regulations allow no alteration of a coastal bank or BVW absent a variance. The Applicant's NOI included a request for variance. The Commission may only grant a waiver in "rare and unusual cases" (section 5.01(1)).

The Commission finds that:

- a) Squibnocket Beach is one of only 3 beaches in Town available for residents' use.
- b) No other beach (and associated roadway and parking lot) is similarly threatened by erosion.
- c) The combined projects include the significant restoration of coastal and wetland resources by removing an existing revetment, roadway and parking lot which have, over the years, exacerbated erosion by scouring and the destruction of adjacent coastal resources when debris is washed into them during storms. This proposal eliminates additional storm damage from the previous man-made impacts.
- d) Absent construction of the access road and causeway, continued access to the 14 residences of Squibnocket Farms might be at least temporarily (and possibly more permanently) disrupted if an alternate access and reliable utility service are not created in the reasonably near term (with obvious consequences for the Squibnocket Farm residents as well as lack of access for emergency vehicles). The Commission understands that this concern is not speculative and that access has been disrupted in the past for several days at a time.
- e) The combined projects (SE 12 – 757 and SE 12 – 759) reflect the extraordinary cooperation of many separate entities to achieve multiple goals benefitting many: vehicular/pedestrian access and to remove (rather than reinforce or enhance) man-made structures from coastal and wetland

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resources (i.e. managed retreat). Without that cooperation, no single party's objectives could have been accomplished.

The Commission believes that the project and the applicant's request for a variance in relation thereto, are sufficiently 'rare and unusual'.

The Commission may grant a waiver "upon a clear and convincing showing that any proposed work, or its natural and consequential impacts and effects, will not have an adverse effect upon any of the interests protected in the Bylaws." The Commission finds that no aspect of the Project will have any long-term adverse effect on the interests protected by the Bylaws. Furthermore, the beneficial aspects of the project when viewed as a whole and in conjunction with its companion project, more than offset individual minor impacts.

Special Conditions

1. The expanded limit of work outline as shown on the hand-dated May 25, 2016 site plan MR-1 is approved.
2. The applicant must provide a landscaping and landscape maintenance plan to the Commission (or at their direction to the Conservation Agent) for approval approximately 60 days following the completion of the causeway construction. No fertilizers, herbicides, fungicides or pesticides shall be used.
3. The applicant must file plans with the Commission for a further managed retreat of the affected project components when mean high water reaches the previously outlined 30' mark.
4. All erosion control measures shall be installed and approved by the Conservation Agent before work begins. They will be continually maintained in good condition until the work is completed and the site is restored.
5. On site conferences shall take place among the Conservation Agent, the engineer and contractor(s) to review this Order and discuss the scope of work and methods before each of the following phases of construction begins.
 - Project staging
 - Site preparation – heavy equipment staging, access road fill and construction
 - Steel piling installation, concrete deck installation, utilities removal and new trenching existing man-made structure removal.
 - Paving
 - Site restoration.
 - Emergency measures that may be needed due to storm damage during construction.
6. On-going maintenance of the causeway deck, access roads and underground utilities is allowed provided the maintenance plans are reviewed with the Conservation Commission before work begins.
7. On-going maintenance of the causeway side rails, above-ground utilities and steel pile re-coating is allowed without prior approval from the Commission.
8. The applicant will share the on-going measurement of erosion rates with the Commission.

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9. Should the storm water drainage swale fail to perform or is compromised by storm damage the applicant shall return to the Commission within 30 days with a plan to repair the drainage system.
10. When further natural erosion and rising sea level conditions dictate the physical relocation of the causeway or either of its access roads, a plan for the complete removal of the remaining rocks, stones and cobble at Money Hill shall also be presented.

Squibnocket Farm Access Project
Chilmark, Massachusetts
DEP File No. SE12-759

Preliminary Construction Phase Mitigation Measures

May 18, 2016

The following is a summary of the construction-phase mitigation measures proposed for the Squibnocket Farm Access Project. "Project Plans" shall refer to the drawings referenced in the Chilmark Conservation Commission's Order of Conditions, as may be revised or supplemented upon the Commission's approval.

Part A. Preconstruction/Mobilization

1. The Commission-approved boundaries of Bordering Vegetated Wetlands (BVW) will be marked in the field using wooden stakes indicating the BVW boundary.
2. The limit of work will be clearly identified in the field by an orange construction fence and clearly identified by signage as follows: "Limit of Work".
3. Erosion control measures will be installed at the limit of work or as otherwise directed by the Chilmark Conservation Commission. A backup supply of erosion control and orange construction fencing will be maintained in a nearby location, outside the mapped 100-year coastal floodplain.
4. Spill prevention and containment materials will be available on-site during construction.
5. Signage will be installed indicating the MassDEP File Number and emergency contact information for the contractor and Chilmark Conservation Commission.
6. A construction staging area will be established in the existing parking lot including perimeter fencing.

Part B. At-Grade Roadway Construction

7. Vegetation within the project area will be removed in a manner that avoids significant disturbance of the existing soil surface and disposed of in an upland location consistent with applicable law.
8. No tracked equipment will be permitted within the unpaved portion of the work area until suitable ground stabilization measures have been established to avoid alteration of the protected wetland resources and of any subsurface resources of archaeological interest.
9. A stabilized construction entrance will be established at the site entrance adjacent to Squibnocket Road following completion of the ground stabilization.
10. Erosion controls and the limit of work barriers will be inspected at the beginning and end of each work day and maintained as needed.
11. Accumulated sediments will be removed by hand or machinery operating upslope of the barriers and reused on-site or disposed of in an upland area.
12. Dust control measures will be deployed during construction on an as-needed basis.

Part C. Causeway Construction

13. The causeway piles and, to the extent appropriate, the concrete decking panels will be installed by track-mounted crane operating within the established temporary work areas.
14. Impacts to BVW will be minimized through the use of timber mats deployed on an as-needed basis within the temporary work area and buffer zone.
15. Timber mats may remain within the BVW for the duration of the causeway construction but will be removed promptly following the completion of work.
16. Mechanized equipment will be refueled outside of BVW whenever feasible. Refueling of the pile driving equipment may occur within the BVW only if suitable spill prevention measures are deployed.

Part D. Completion of Construction

17. Following construction, down-gradient erosion control barriers will be maintained until the up-gradient areas are permanently stabilized by pavement or vegetation. The contractor shall obtain prior approval from the Chilmark Conservation Agent before removing erosion controls separating the work area from BVW or Squibnocket Pond.

Squibnocket Farm, Inc. Managed Retreat Plan

Submitted: March 4, 2016

Squibnocket Farm Inc. (Squibnocket Farm) submits the following managed retreat plan in response to the request made by Conservation Commission on March 2, 2016. Capitalized terms not defined below have the meaning given to them in the Notice of Intent (NOI).

Squibnocket Farm proposes the following three stage plan of monitoring, planning, and retreating:

Monitor: The monitoring stage will begin when the mean high water of the Atlantic Ocean (MHW) is between 30 feet and 20 feet of either end of the Low Causeway. During this period of time, which, based on current erosion rates, is expected to last approximately 10 years, Squibnocket Farm proposes to measure erosion and coastal change on a yearly basis using lidar surveying (or comparable survey techniques).

Plan: Once MHW is within 20 feet of either end of the Low Causeway, Squibnocket Farm will submit the lidar data to the Conservation Commission (or its applicable predecessor) and begin the planning stage. During this stage (or earlier upon Squibnocket Farm's election), Squibnocket Farm will prepare a managed retreat plan to address long-term vehicular access to Squibnocket Ridge (the Managed Retreat Plan), taking into account the lidar data collected during the monitoring phase, engineering considerations, the then current and applicable regulatory regime, and any other considerations that impact the Project Site during or after the planning stage. The planning stage for Squibnocket Farm will last until the MHW is within 10 feet of either end of the Low Causeway and, again, the planning stage is expected to last approximately 10 years after the end of the monitoring stage based on current rates of erosion. Monitoring will continue during the planning phase as erosion/deposition rates may change over time.

Retreat: Once MHW is within 10 feet of either end of the Low Causeway, Squibnocket Farm must have lawfully permitted its Managed Retreat Plan (in compliance with the then current and applicable regulatory regime) or remove the Low Causeway in compliance with all applicable laws, including, any performance standards that apply to removing the piles from a Barrier Beach. If the Managed Retreat Plan does not contemplate or require continued use and maintenance of the Low Causeway, Squibnocket Farm shall remove the Low Causeway upon implementation of the Managed Retreat Plan.



Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Jack Buckley, *Director*

May 17, 2016

Squibnocket Farm Association, Inc
and the Town of Chilmark
c/o Vineyard Land Surveying

Chilmark Conservation Commission
Town Offices
P.O. Box 119
Chilmark MA 02535

RE: Applicant: Squibnocket Farm, Inc
 Project Location: Squibnocket Road
 Project Description: Relocate Roadway and Parking
 DEP Wetlands File No.: 012-0759
 NHESP File No.: 08-25315

Dear Commissioners & Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent with site plans (dated December 18, 2015) in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37, 10.59). The Division previously received supporting documentation for review pursuant to the MA Endangered Species Act Regulations (321 CMR 10.18).

WETLANDS PROTECTION ACT (WPA)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not adversely affect** the actual Resource Area Habitat of state-protected rare wildlife species. Therefore, it is our opinion that this project meets the state-listed species performance standard for the issuance of an Order of Conditions.

Please note that this determination addresses only the matter of **rare** wildlife habitat and does not pertain to other wildlife habitat issues that may be pertinent to the proposed project.

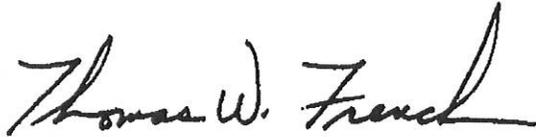
MASSACHUSETTS ENDANGERED SPECIES ACT (MESA)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not result in a prohibited "take"** of state-listed rare species. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

www.mass.gov/nhesp

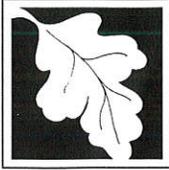
Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Emily Holt, Endangered Species Review Assistant, at (508) 389-6385.

Sincerely,

A handwritten signature in black ink that reads "Thomas W. French". The signature is written in a cursive style with a large, sweeping initial 'T'.

Thomas W. French, Ph.D.
Assistant Director

cc: Daniel Padien, Vanasse Hangen Brustlin, Inc.
Town of Chilmark Board of Selectmen
MA DEP Southeast Region



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE 12 - 759
 MassDEP File #

eDEP Transaction #
 Chilmark
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

6/1/16

1. Date of Issuance

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Cluis Murphy
Stangt Brogan
Candy Shudder

[Signature]
[Signature]

by hand delivery on

by certified mail, return receipt requested, on

6/1/16

Date

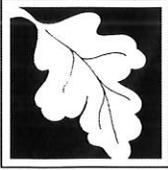
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE 12 - 759
 MassDEP File #

eDEP Transaction #
 Chilmark
 City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Chilmark
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Chilmark
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Squibnocket Rd. AP 35-1.30, 17.3, 17.4, SE 12 - 759
 21, 22, 23 MassDEP File Number

Has been recorded at the Registry of Deeds of:

County of Dukes County
 County Book Page

for: Property Owner

and has been noted in the chain of title of the affected property in:

Book Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant