

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 - 757

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. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Town of Chilmark

a. First Name

b. Last Name

c/o Vineyard Land Surveying & Engin

c. Organization

P.O. Box 421

d. Mailing Address

West Tisbury

MA.

02575

e. City/Town

f. State

g. Zip Code

4. Property Owner (if different from applicant):

See attached owner list.

a. First Name

b. Last Name

c/o Vineyard Land Surveying & Engineering

c. Organization

P.O. Box 421

d. Mailing Address

West Tisbury

MA.

02575

e. City/Town

f. State

g. Zip Code

5. Project Location:

Squibnocket Farm Rd. & Squibnocket Rd.

a. Street Address

Chilmark

b. City/Town

Map 35

c. Assessors Map/Plat Number

Lots 1.30, 17.2, 17.3, 17.4, 20, 21, 22 & 23

d. Parcel/Lot Number

Latitude and Longitude, if known:

d m s
d. Latitude

d m s
e. Longitude

SE 12 – 757 Property Owners

Harold I Pratt and Thomas E. Bator: AP 35-17.2

Town of Chilmark: AP 35-17.3, 17.4, 20 and 22

Squibnocket Farm, Inc.: AP 35-21, 23

Vineyard Open Land Foundation: AP 35-1.30

Vineyard Land Surveying & Engineering, Inc.

PO Box 421 West Tisbury, MA 02575-0421

Glenn F. Provost
Professional Land Surveyor

Reid G. Silva
Professional Engineer
Professional Land Surveyor

William M. Austin
Professional Land Surveyor

(t) 508-693-3774

e-mail info@vlse.net

(f) 508-693-8575

December 17, 2015

Chilmark Conservation Commission
P.O. Box 119
Chilmark, MA 02535

Department of Environmental Protection
Southeast Region
20 Riverside Drive
Lakeville, MA 02347

RE: Squibnocket Beach Parking Lot, Chilmark

Project Summary

Demolition:

Remove approx. 14,250 SF of "soil cement" parking surface within barrier beach resource area.

Remove approx. 2,000 cubic yards of fill material from barrier beach area.

Remove approx. 470 linear feet of stone revetment adjacent to coastal beach and dune.

Restoration:

Import approx. 3500 cubic yards of beach/dune nourishment sand.

Grade and construct dune.

Plant beach grass on lee side of dune for stabilization and dune restoration

Construction:

Construct 45 space parking area with (2) handicap accessible spaces and bus drop-off/turn-around area.

Install stormwater drainage system to accommodate new parking area.

Replicate displaced wetland area.

Town of Chilmark, Squibnocket Beach Restoration and new Parking Project Narrative.

June 8, 2015

Project Narrative:

Squibnocket Beach is used as a town beach for Chilmark residents and guests. A lease agreement was granted to the town in 1956 allowing use of the beach and adjacent parking area. The beach is located on the southwest corner of Martha's Vineyard on the Atlantic Ocean. The beach faces south to southeast and is subject to high wind and wave energy developed from coastal storms and hurricanes. The beach consists exists in a low area between two coastal banks of dense glacial till and forms a barrier to Squibnocket Pond on the north. Squibnocket Ridge is a residential development located to the west of the beach parking area. The sole access to the development is Squibnocket Farm Road that runs through the parking area and continues west over a causeway and barrier beach to the development. A revetment was constructed to protect the Squibnocket Ridge access and beach parking area from storm damage and erosion. This revetment continues to protect the parking lot and roadway from erosion, however as adjacent land and beach continue to erode the parking lot and revetment require more frequent and significant repairs. The town of Chilmark and Squibnocket Ridge have researched options to address the ongoing pressure of erosion. The town and the Squibnocket Homeowners Association have conducted public meetings and reached out to both private and government sources for information and recommendations. Most of this history can be found on the town website.

http://www.chilmarkma.gov/Pages/ChilmarkMA_squibnocket/index

As a result the Town and the Squibnocket Homeowners have put together a plan consisting of several parts. These parts summarized below are each described in more detail later.

The Squibnocket Homeowners Association of Squibnocket Ridge (Association) plan to build a new access road and causeway further back from the shoreline. The new road and causeway are being designed, built and financed by the Squibnocket Homeowners Association. The Town of Chilmark plans to relocate

the existing parking area to the north, further away from the shoreline and off of the barrier beach. As part of the relocation, the town will remove most of the existing revetments and restore the area to a more natural barrier beach system.

The roadway relocation effort conducted by the Association and the parking lot relocation conducted by the town are closely related and require the cooperative effort by both entities. The building of a new access road for the Association must be completed prior to the construction of the new town parking lot and removal of the existing parking lot and revetments.

Once the new road and bridge are constructed, restoration of the beach area can begin. All of the rocks making up the revetment will be removed and used as retaining structure around the new parking area. Any fill and debris resulting from the existing parking lot will be removed from the site. New beach and dune compatible sand fill will be brought in to form a low dune to protect the disturbed area until the natural process of wind and waves shape the barrier beach environment.

New Parking Area: The relocated parking area will be placed on top of and adjacent to the existing paved Squibnocket Road to the north. Due to the sloping land, the area adjacent to the existing paved surface will need to be filled and graded. Stone removed from the parking lot revetment will be used to construct a small retaining wall to support portions of the new parking lot.

Beach and Dune restoration: Stone from the existing revetments protecting both the Association access and parking lot will be removed. The parking area surface and base fill material will also be removed from the site. Soil sampling will be conducted on the existing beach and dune profile to assess existing soil composition. Compatible nourishment material will be imported, spread and graded to mimic adjacent beach profiles and a more natural low dune system. Beach grass will be planted on top of and behind the dune to help stabilize and protect the area.

A proposed skiff launching area is proposed for boat access to Squibnocket Pond. The existing launch area used by recreation boaters and fishermen is located on the north side of the parking area and extends to Squibnocket Pond. As part of the restoration project, the launch area will be relocated to the west. The new launch area will be adjacent to Squibnocket Farm Road to the north and will be in a less vulnerable and sensitive location. The area will allow for a

trailed boat to be launched into or retrieved from the pond. The access surface will be gravel (no pavement proposed) and extend from the side of the existing dirt road to the edge of the pond. There will be no parking provided for the launch area users.

IMPACTS:

The primary objective of this project is to remove an existing parking area and revetment from a sensitive barrier beach environment to a more stable, less vulnerable adjacent location. In doing so, the town hopes to return an area altered by hard structure to its natural state and environment. The project will remove hard structures and material (ie road, parking area, and revetment) and replace it with compatible beach and dune nourishment. Due to limited public land and space, the relocated parking area, beach access and skiff launch will be located partially within resource area's and buffer zones thereto.

Parking Area: The newly relocated parking area will be partially located on a Coastal Bank, partially within a Flood Hazard Area (potential V-zone), and a partially on a Bordering Vegetated. Area of disturbance has been quantified on the accompanying project plans. Due to the sloping land, a portion of the parking lot will encroach into a portion of BVW. A 1:1 replication area has been identified on the project plans in close proximity to the area of disturbance. The BVW borders a "spring" where subsurface waters break out of the bank surface. The replication area will be on the downslope area adjacent to the spring. An effort will be made to relocate the vegetation and root systems within the disturbed area to the replication area. If the relocated plant material does not survive, representative new plants will be installed. The replication area will be prepped by remove existing plant material and earth to the same elevation as the edge of the adjacent BVW. This will ensure the replication area is hydraulically compatible with the adjacent BVW.

Restoration area: Parking area and revetment removal will be limited to material placed on the site by man. Revetment stone, parking surface and base hardener material will be removed from the barrier beach. The placement of nourishment material will be within disturbed areas and will not be placed over or displace BVW resources. Material used will be compatible with the surrounding barrier beach. American Beach Grass will be planted on top of and behind the dune area to help temporarily stabilize the slopes. The temporary impact of the restoration will be the creation of a low dune system. Construction activity in the beach area is expected to take under a month and will be planned around possible storm and erosion activity. Siltation and

construction barriers will be used to contain the activity and materials until nourishment material is in place. The long term impacts will be a more natural restoration of this area to a low barrier beach environment. Our design of the restoration project recognizes that this area will be subject to continual changes during periods of heavy erosion and over-wash as well as periods of minor accretion and stabilization. Due to the minimal sediment supply within the system, and frequent occurrence of high wave energy, we anticipate significant wash-over events that will relocate nourished material and cobble from the dune and beach to the north. The eventual barrier beach system will function as a low dune system and over-wash area.

Skiff Launch: temporary impacts to the newly located skiff launch area will be disruption to the existing vegetation and root system. The vegetation will be cut and the organic soil layer and root systems will be removed. Immediately after the soil is removed, gravel will be placed and compacted. The work to complete the launch area is anticipated to last 3 days. Long term impacts to the area will be the replication of displaced BVW and minimal vehicular traffic necessary to launch skiffs.

ALTERNATIVES:

There are essentially three alternatives to the relocation of the parking and skiff launch areas that were evaluated:

1. Continue to repair and maintain the revetment, roadway and parking area in its current location: This will involve more frequent and significant repair of the revetment and parking surface in coming years. Though there is no immanent need today, the town and its planners recognize that there will be a day in the relatively short future that maintaining the structures in their current location will not be practical. Additionally, as erosion continues to lower the beach vertically in front of the revetment, there will be less beach area for use.
2. Relocate parking area to the west: A proposal was made to the town by its selectmen to relocate the parking lot and skiff launch to the west of the current location. The new area would be in a more stable location, further back from the shoreline and would minimize construction and acquisition costs to the town. The proposal was reviewed by consultants to the town, government agencies and private consultants representing nearby homeowners. Through this rigorous review process, the town ultimately voted reject the proposed relocation area.

3. Relocate parking offsite: An alternative was evaluated by the town Selectmen to remove the existing parking area and provide offsite parking and bussing to the beach. This alternative was determined to be impractical and would still require construction of a drop off and turn around area for busses. Access to the beach would also need to be provided.

PROJECT PHASES:

Access to the Squibnocket Farm development must be maintained for the safety and convenience of its homeowners. For this reason, until the new road and bridge is built and usable, the existing access road must be maintained.

PROJECT PREPARATION AND STAGING - After construction of the new causeway is complete, the relocation of the parking area and dune restoration project will begin. Siltation barriers and construction fencing will be placed between the project limits and the wetland and dune area. The vegetation and organic material will be removed from the new parking area in preparation for construction. Structural fill and base hardener material will be placed and compacted within the new parking area. The area will be used for construction staging during the removal of the existing parking lot and retaining walls.

DUNE/BARRIER BEACH RESTORATION: Surface and fill material within the existing parking area, road and causeway will be stripped and removed. The revetment stone on the pond side of the causeway will be removed and placed as retaining wall stone adjacent to the new parking area. The revetment stone on the ocean side of the parking lot and causeway will remain in place as dune nourishment sand is imported to the site. The revetment stone will act as a siltation and construction barrier as well as protect the restoration area through the construction and grading process. Nourishment material will be off-loaded from trucks and graded with loaders and bulldozers. Vegetation will be planted on the pond side of the restored dune area. The remaining revetment stone will then be removed and used as retaining wall stone around the new parking lot and the Ocean side of the dune will then be graded. The small BVW replication area will be graded and constructed just prior to final grading of the dune restoration area adjacent to the new parking lot.

PARKING LOT CONSTRUCTION - Stone removed from the revetments will be used to complete the retaining wall construction on the pond side of the parking area. Catch basins and drainage swales will be constructed for storm water management. Base hardener will then be placed and graded within the parking area. Asphalt paving will be installed within the Cul-de-sac area and handicap parking spaces and gravel will be placed throughout the remaining parking area.

SKIFF LAUNCH – The Skiff launch area will be constructed after final construction of the parking lot. The work area will be cleared of vegetation and all organic and root matter will be removed. Washed gravel will be placed and compacted within the access area.

ARCHAEOLOGICAL RESOURCES:

The new road and bridge will require archaeological review prior to any excavation. Test pits will be performed by a qualified archaeologist and the results confirmed prior to final design and permitting. Any recommendations resulting from the investigations will be implemented in the permitting and construction process.

STORMWATER MANAGEMENT:

The new parking area surface will consist of the existing asphalt paved road surface to remain, the addition of asphalt paving within the circular cul-de-sac area and a gravel surface over newly created parking area. Storm water management on all paved surfaces will be accomplished through surface collection at catch basins and vegetated swales, with disposal through subsurface leaching facilities. Gravel surfaces will remain pervious and the perimeter of which will be bordered by gravel trenches.



Checklist for Stormwater Report

B. Stormwater Checklist and Certification

The following checklist is intended to serve as a guide for applicants as to the elements that ordinarily need to be addressed in a complete Stormwater Report. The checklist is also intended to provide conservation commissions and other reviewing authorities with a summary of the components necessary for a comprehensive Stormwater Report that addresses the ten Stormwater Standards.

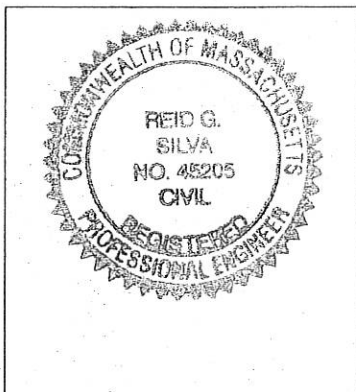
Note: Because stormwater requirements vary from project to project, it is possible that a complete Stormwater Report may not include information on some of the subjects specified in the Checklist. If it is determined that a specific item does not apply to the project under review, please note that the item is not applicable (N.A.) and provide the reasons for that determination.

A complete checklist must include the Certification set forth below signed by the Registered Professional Engineer who prepared the Stormwater Report.

Registered Professional Engineer's Certification

I have reviewed the Stormwater Report, including the soil evaluation, computations, Long-term Pollution Prevention Plan, the Construction Period Erosion and Sedimentation Control Plan (if included), the Long-term Post-Construction Operation and Maintenance Plan, the Illicit Discharge Compliance Statement (if included) and the plans showing the stormwater management system, and have determined that they have been prepared in accordance with the requirements of the Stormwater Management Standards as further elaborated by the Massachusetts Stormwater Handbook. I have also determined that the information presented in the Stormwater Checklist is accurate and that the information presented in the Stormwater Report accurately reflects conditions at the site as of the date of this permit application.

Registered Professional Engineer Block and Signature



Reid G. Silva 12/17/2015
Signature and Date

Checklist

Project Type: Is the application for new development, redevelopment, or a mix of new and redevelopment?

- ☐ New development
☒ Redevelopment
☐ Mix of New Development and Redevelopment



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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
- | | |
|------------|--|
| a. County | b. Certificate Number (if registered land) |
| <u>691</u> | <u>254</u> |
| c. Book | d. Page |
7. Dates: 12/17/15 5/25/16 6/1/16
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):
Sheet C1 Parking & Restoration Plan Prepared for Town of Chilmark, Mass.
- | | | |
|--|-----------------|--------------------------|
| a. Plan Title | b. Prepared By | c. Signed and Stamped by |
| <u>Vineyard Land Surveying & Engineering</u> | <u>5/23/16</u> | <u>1" = 30'</u> |
| d. Final Revision Date | e. Scale | |
| <u>Sheet C2 Section Plans Prepared for Town of Chilmark, Mass.</u> | <u>12/17/15</u> | |
| f. Additional Plan or Document Title | g. Date | |

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

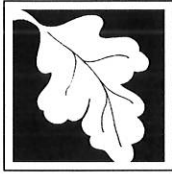
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|--|--|---|
| a. <input type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input type="checkbox"/> 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.



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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	1190 _____ a. square feet	1190 _____ 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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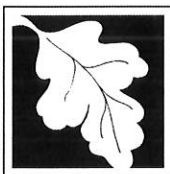
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B. Findings (cont.)

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	0		cu yd	cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	15850	15850	3000 cu yd	3000 cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input checked="" type="checkbox"/> Coastal Banks	8600	8600		
	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	46,110	46,110		
	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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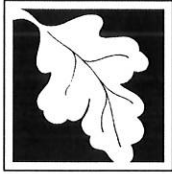
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C. General Conditions Under Massachusetts Wetlands Protection Act

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 - 757 "
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.



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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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SE 12 - 757
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City/Town

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;



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

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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:

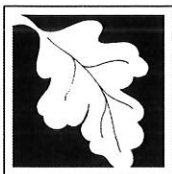
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

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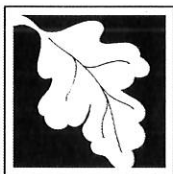
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- 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 - 757; 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 Conservation Commission hereby finds (check one that applies):

- 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 Order of Conditions SE 12 - 757; May 25, 2016

CHILMARK ORDER OF CONDITIONS SE 12 – 757
MAY 25, 2016

Introduction

This project concerns the removal and relocation of a parking lot, the removal of a revetment and 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. 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-759). That project concerns the construction of an access roadway and elevated causeway. The resource areas impacted are: BVW, coastal dune, coastal bank and land subject to coastal storm flowage.

Although there are 2 separate NOI's 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**".)

1. **Removal of the revetment, parking lot and roadway, restoration of the habitat and re-establishment of dune with compatible sand**– these activities will impact coastal dune, coastal bank and land subject to coastal storm flowage resource areas. The Commission finds that:
 - The site alteration will not impact the ability of waves to remove sand from the dune. In fact, the existing revetment inhibits both this function and the lateral and landward movement of the dune. Removal of the revetment, parking lot and roadway with the restoration and re-establishment of the dune is expected to enable the movement of sediment from the coastal dune to coastal beaches and land subject to tidal action (i.e. normal littoral drift and the landward accretion of sand along the beach).
 - The proposal calls for the addition of compatible sand to build up the dune. The purpose of the built-up dune area is not to create a dune per se or to establish a long-term barrier to future erosion, but rather to facilitate the establishment of a natural contour to the area by enabling the area to stabilize itself with planted vegetation on the landward side. This is expected to enhance the resource area's ability to protect the wetland interests and Coastal Pond. This is also expected to decrease the potential for storm or flood damage – at least until the natural process of

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wind and waves shape the barrier beach environment and enable the area to respond to storms in a way unfettered by manmade structures.

- The existing parking lot and roadway are covered with a hard surface “soil-cement”, so there is currently no vegetative cover. The project calls for landscaping with native beach grasses, which will mitigate the existing impaired functionality.
 - Landscaping (including fencing and a pathway from the parking lot to the beach) will be designed to prevent dune erosion caused by pedestrian and vehicular traffic and minimize disturbance to vegetative cover. The restored dune area will be replanted with native beach grass in an effort to enable stabilization of the area to a more natural form.
 - The project will not cause the removal of sand from the dune artificially. Only materials placed on the site by man will be removed.
 - 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 proposed sand fill is compatible with the existing beach sand and is appropriate for the formation of a low dune intended to protect the resource area. No fill will be placed over or displace BVW resources.
 - The project will not have any adverse effects on the stability of the coastal bank.
2. **Parking lot relocation** – this activity will impact coastal bank, land subject to coastal storm flowage and BVW resource areas. The Commission finds that:
- The coastal bank on which the parking lot relocation 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 relocation of the parking lot.
 - The relocation of the parking lot will have no adverse effects on the stability of the coastal bank.
 - The relocation of the parking lot does not include any coastal engineering structure.
 - The relocation of the parking lot is designed with appropriate drainage systems to protect ground, surface and salt water from pollution.
 - The proposal to deal with storm water run-off is adequate to compensate for any reduced permeability of the surface area.
 - 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.
 - Although work is proposed in the BVW, any destruction or impairment is de minimis. See further discussion under “Replication”.
 - Because of the limited extent of the incursion of the work in the BVW, the relocation of the parking lot will not impair the ability of the BVW in the project vicinity to protect the interests of wildlife and wildlife habitat, water supply, flood control, storm damage prevention, pollution prevention, protection of fisheries and shellfish.

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- Paved vs gravel alternatives for the parking lot both present advantages and disadvantages. On balance, it is not clear that one option is markedly preferable to another in terms of protecting the resource areas. Either surface would be readily removable and would equally disturb the resource area in the event of further managed retreat. See further discussion under “Managed Retreat”. The proposed gravel parking lot is appropriate.
 - The parking area includes a turnaround. There is a compelling rationale for the turnaround area to be paved both in terms of potential erosion with buses turning in the area (and resulting increased maintenance efforts) and handicapped accessibility.
 - Areas adjacent to the parking lot 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.
3. **Skiff Launch** – this activity will impact barrier beach and BVW resource areas. The Commission finds that:
- Currently there is a skiff launch area in BVW, causing more resource disturbance than in the proposed launch area. The current launch area is difficult to access and is often covered with debris from the existing parking lot. The project relocates it with a clearer and separate access with negligible impact on the resource area.
 - The proposed skiff launch is located on the landward side of a barrier beach which is densely vegetated. It does not serve as a source of sediment, but contributes to storm damage and flood control. Although some removal of vegetation will occur, in the context of the entire coastal bank and adjacent coastal dunes, there will be no adverse impact on the bank’s ability to continue to perform the storm damage and flood control function.
 - The skiff launch will have no adverse effects on the stability of the barrier beach.
 - There will be no parking at the launch site and therefore impact due to the minimal vehicular traffic will be negligible.
 - The proposal to remove the existing organics and fine material before laying gravel on the prepared stable base gravel (as opposed to laying gravel directly on top of the existing ground surface) will result in greater stability of the resource area, less displacement of sediment and organic material into the pond and less rutting, requiring less maintenance and work/intrusion in the resource area.
 - Although the skiff launch is, in part, to be located in BVW, any destruction or impairment is de minimis—especially when compared to the existing skiff launch. See further discussion under “Replication”.
 - Because of the limited extent of the incursion of the work in the BVW, the skiff launch will not impair the ability of the BVW in the project vicinity to protect the interests of wildlife and wildlife habitat, water supply, flood control, storm damage prevention, pollution prevention, protection of fisheries and shellfish.

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4. **Money Hill Location** – this activity will impact coastal bank and coastal dune resource areas. The Commission notes that this aspect of the project was included at the Commission's request. The fitted bluestone revetment will be removed along with the hard-surface roadway. The existing native, boulders, stones and cobble that match the glacial till will be placed loosely as shown on the site plan. The Commission finds that:
- As compared to the existing revetment, the stones will not adversely affect the coastal dune by affecting the ability of waves to remove or deposit sand or sediment from one resource area to another or by interfering with the landward or lateral movement of the dune. In fact, the proposed area will more effectively absorb wave energy to minimize erosion at the site.
 - The placement of the stones will not cause the removal of any vegetative cover. The only material removed will be the existing revetment rocks. No vegetative planting is considered necessary.
 - It is not anticipated that stones will cause any modification of the dune form so as to increase the potential for storm or flood damage.
 - The stones will not interfere with the landward or lateral movement of the dune any more than the existing revetment.
 - This element of the project will not cause the removal of sand from the dune artificially. Only materials placed on the site by man will be removed.
 - This element of the project does not include pedestrian walkways, fencing or other similar devices.
 - The stones will have no adverse effect on the stability of the coastal bank.

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 include the removal of revetment, the removal of the hard surface access roadway and parking area and the relocation of the access road and parking lot to upland locations more remote from the coastal bank and coastal beach.

The Commission finds that these project elements, together with the establishment of a dune, will enable restoration of the coastal resources at the project site and adjacent vicinity.

The Commission notes that the revetment was constructed many years ago; that it has had to be repaired and rebuilt on numerous occasions; and that it has had a detrimental effect on (a) the adjacent coastal bank, with significant scouring and erosion at its easternmost end and on (b) the barrier beach and BVW landward of the revetment with the over wash of revetment debris (i.e. pieces of soil cement) in the course of severe storms.

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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 accepts the applicant's statements 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 planning for further managed retreat when the mean high water approaches within 40' of the seaward edge of the parking lot turnaround. The Commission notes that the coastal bank immediately east of the current parking lot/revetment is approximately 40' landward of MHW, that from present perspectives, 40' from the southernmost edge of the parking lot would appear to provide ample time for the planning for and ultimate removal of the parking lot structure before the parking lot may perform as a revetment.

Alternatives

The Commission notes that the applicant has investigated a number of alternatives to the project in an effort to meet its (and Squibnocket Farms') objectives. That investigation process (the details of which are incorporated by reference in the NOI and ENF) involved almost two years of meetings and the review of expert evidence. In addition, the NOI detailed 3 specific alternatives which the applicant considered. The Commission is satisfied that there is no alternative which is either out of the buffer zone or further away from the resource areas which meets the applicants' objectives. Further, the Commission finds that the applicant's proposal seeks to minimize wetland impacts.

Replication

Work in a BVW must not destroy or otherwise impair the area. A small area of BVW is proposed to be used for the proposed parking area and a similarly small area of BVW is proposed to be used for the skiff launch. Although the NOI appropriately included a plan for replication of lost/impaired BVW, the Commission regards the total lost/impaired area as de minimis. The Commission hastens to point out that, while 1190 square feet might not ordinarily be viewed as de minimis, the project vicinity includes a large area of BVW encircling the entire eastern end of the pond. The Commission also notes that the project area abuts a significant inland coastal pond and, extending east and west for some considerable distance, coastal beach, coastal dune, barrier beach, coastal bank and land subject to coastal flooding. Seen in the context of the expanse of these extensive protected resource areas, the lost/impaired BVW is considered de minimis. Further, the Commission finds that the area proposed for replication is

itself a protected resource and that under the circumstances; it makes little sense to sacrifice one resource area to replicate another.

Moreover, replication would create unnecessary disturbance to the area (grading, de-vegetation of the existing woody vegetation and then re-vegetation with similar woody wetland vegetation) without the possibility of any assurance that the re-vegetation would survive. Indeed, it is expected that area will be subject to wash overs over time which might affect the ability of the newly replicated area to thrive. Further, the areas already have very similar vegetation (albeit nominally suited to different resource areas) and the change from one type to the next would have minimal impact on the ability of these adjacent wetlands to protect the statutory interests. Other realistic sites in the vicinity were described by the applicant and for the reasons stated in response to the Commission's questions; the Commission finds that they were even less suited to the resource areas affected by the project.

In the Commission's view the disturbance caused by replication is not offset by any additional BVW at the project 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 dune, coastal bank or BVW absent a variance. The applicant filed a request for variance during the proceedings. The Commission may only grant a waiver in "rare and unusual cases" (section 5.01(1)).

The Commission finds that:

- a) Squibnocket Beach, the preservation of which is at the heart of the applicant's project, is one of only 3 beaches in Town available for residents' use.
- b) No other beach (and associated parking lot) is similarly threatened by erosion.
- c) Unlike private property owner applications, this application is intended for the benefit of the entire Town.
- d) The combined projects include the significant restoration of wetland resources by removing an existing revetment and parking lot (which have, over the years, exacerbated erosion by scouring and the destruction of adjacent wetland resources when debris is washed into them during storms) and by the relocation of the Squibnocket Farms access road.
- e) 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

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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.

- f) 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 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 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 (SE 12 – 759). No fertilizers, herbicides, fungicides or pesticides shall be used.
2. The applicant must file plans with the Commission for a further managed retreat of the affected project components when mean high water reaches the 40' mark from the southernmost edge of the relocated parking lot turnaround.
3. The site protection measures as outlined on Site Plan Sheet C1 revised and dated 5/23/16 are appropriate. 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.
4. 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 – parking retaining wall construction, parking filling, grading, paving
 - Existing man-made structure removal.
 - Site restoration—sand nourishment and re-vegetation.
 - Emergency measures that may be needed due to storm damage during construction.

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5. On-going maintenance of the parking area and skiff launch is allowed provided the maintenance plans are reviewed with the Conservation Commission before work begins.
6. Symbolic “rope fencing” shall be placed along both sides of the skiff launch and on the ocean side of the roadway opposite the skiff launch to keep vehicles off the resource area.
7. Should the storm water gravel drainage trench at the parking lot 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.



Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Jack Buckley, *Director*

January 22, 2016

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

Town of Chilmark
c/o Vineyard Land Surveying & Engineering, Inc.
PO Box 421
West Tisbury MA 02575

RE: Applicant: Town of Chilmark
 Project Location: Squibnocket Farm Road & Squibnocket Road
 Project Description: Removal/Relocation of Municipal Parking Lot
 DEP Wetlands File No.: 012-0757
 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 17, 2015) in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37). The Division also received the MESA Review Checklist and 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)

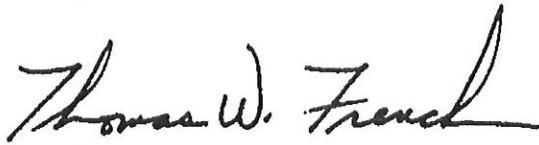
Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not result in a prohibited "take"** of state-listed rare species. This determination is a final decision 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

www.mass.gov/nhesp

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.

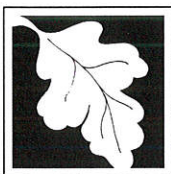
Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Emily Holt, Endangered Species Review Assistant, at (508) 389-6385.

Sincerely,

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

Thomas W. French, Ph.D.
Assistant Director

cc: Reid Silva, Vineyard Land Surveying & Engineering, Inc.
MA DEP Southeast Region



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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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:

Chris Murphy
David B. [unclear]
Candy Shroeder

[Signature]
Camela [unclear]

☒ by hand delivery on

6/1/16

Date

☐ by certified mail, return receipt requested, on

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 - 757

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:

Squib. Farm Rd & Squibnocket Rd. AP 35-
1.30, 17.2, 17.3, 17.4, 20, 21, 22 & 23

SE 12 - 757

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