



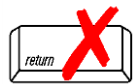
WPA Form 8A – Request for Certificate of Compliance

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

A. Project Information

Important:

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



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Blue Heron, LLC

Name

c/o Vineyard Land Surveying & Engineering, Inc. P. O. Box 421

Mailing Address

West Tisbury

City/Town

MA

State

02575

Zip Code

508-693-3774

Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

Blue Heron, LLC

Applicant

2/12/2019

Dated

SE79-394

DEP File Number

3. The project site is located at:

99 Pond View Farm Road

Street Address

35

Assessors Map/Plat Number

West Tisbury

City/Town

1.9

Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

Blue Heron, LLC

Property Owner (if different)

Dukes

County

1489

Book

575

Page

Certificate (if registered land)

5. This request is for certification that (check one):

the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes

If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

No

B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region/findyour.htm>).

Dukes - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 8/21/2020 8:32:58 AM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
997	ORDER		01489/575	02/25/2019	
Property-Street Address and/or Description					
1303/540, SE79-394					
Grantors					
BLUE HERON LLC					
Grantees					
WEST TISBURY TOWN CONSERVATION					
References-Book/Pg Description Recorded Year					
01303/540 DEED 2012					
Registered Land Certificate(s)-Cert# Book/Pg					



2019 00000997

Bk: 1489 Pg: 575 Doc: ORD
Page: 1 of 18 02/25/2019 03:14 PM



**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
and the West Tisbury Wetlands Protection Bylaw and Regulations

Provided by MassDEP:
SE79-394
MassDEP File #

eDEP Transaction #
West Tisbury
City/Town

A. General Information

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

1. From: West Tisbury
Conservation Commission

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

3. To: Applicant:

a. First Name Blue Heron, LLC b. Last Name _____
c. Organization _____
d. Mailing Address c/o Vineyard Land Surveying & Engineering, Inc. P.O. Box 421
e. City/Town West Tisbury f. State MA g. Zip Code 02575

4. Property Owner (if different from applicant):

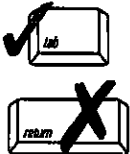
a. First Name _____ b. Last Name _____
c. Organization same as above
d. Mailing Address _____
e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

99 Pond View Farm Road West Tisbury
a. Street Address b. City/Town
35 1.9
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: _____ d m s _____ d m s
d. Latitude e. Longitude

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





**Massachusetts Department of Environmental Protection
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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):
Dukes
- | | |
|-------------|--|
| a. County | b. Certificate Number (if registered land) |
| <u>1303</u> | <u>540</u> |
| c. Book | d. Page |
7. Dates: December 11, 2018 January 22, 2019 February 12, 2019
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):
Site Plan in West Tisbury, Mass prepared for Blue Heron LLC
- | | | |
|--|------------------------------|--------------------------|
| a. Plan Title | b. Prepared By | c. Signed and Stamped by |
| <u>Vineyard Land Surveying & Engineering</u> | <u>unsigned, not stamped</u> | <u>1"-30'</u> |
| d. Final Revision Date | e. Scale | |
| <u></u> | <u></u> | <u></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 checked="" type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" 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.



**Massachusetts Department of Environmental Protection
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) 60
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 type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	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



**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
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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 type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	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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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 SE79-394 "
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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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 special conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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.



**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
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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 West Tisbury 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:

West Tisbury Wetlands Protection Bylaw and Regulations Exhibit A
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 Special Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.



**Massachusetts Department of Environmental Protection
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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.

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

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

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.

6
1. Date of Issuance
2.12.2019
2. Number of Signers

Signatures:

Birnie Rauter
Michael Stowell
Tara J. McNeil

[Signature]
[Signature]
[Signature]

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

2.12.2019

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. Appeals of this Order under the West Tisbury Wetlands Protection Bylaw and Regulations may be made to the Dukes County Superior Court in accordance with M.G.L. Ch. 249 Sec.4.

EXHIBIT A

Special Conditions
99 Pond View Farm Road
Map 35 Lot 1.9
DEP File # SE79-394

Project Description and Jurisdiction:

On December 11, 2018, Vineyard Land Surveying & Engineering, Inc., filed a Notice of Intent (NOI) on behalf of Blue Heron, LLC (the "Applicant"), for a project at 99 Pond View Farm Road. The project consists of grading within the Buffer Zone in connection with construction activities associated with the construction of a single-family dwelling outside the Buffer Zone as shown on the project plan referenced below.

The Conservation Commission has conducted an on-site inspection, reviewed the NOI and submitted information and has determined that the area where the work is proposed is significant to the values of the Wetlands Protection Act and 310 CMR10.00 (the "Act"), and the West Tisbury Wetlands Protection Bylaw and Regulations (the "Bylaw"). A public hearing was held on January 22, 2019. There was no public comment.

This project was reviewed for compliance with the Act at Section 10.02 (Statement of Jurisdiction) and Section 10.24 General Provisions.

Under Section II of the Bylaw, the Buffer Zone is considered to be a Resource Area. This project was reviewed for compliance with the Bylaw Regulations Sections IV (Buffer Zone) and Section XXI (Estimated Habitats of Rare Species and Wildlife). The Applicant requested a waiver from compliance with the performance standards in Section XXI dealing with alterations within 25 to 50 feet of Estimated Habitat.

Findings:

In making a decision on this project, the Commission has considered the magnitude of alteration, the environmental significance of the site, reasonable alternatives, and the minimization of impact and the extent of mitigation measures.

The Commission finds that each parcel of land and proposed project thereon has its own unique characteristics and impacts, therefore, every project brought before the Commission for approval will be considered on a site specific basis. And, because of this site specificity, each project will stand alone and shall not set a precedent in the decisions to be made on subsequent projects. Due to the project location and project design, the proposed project, as conditioned, is allowed but the approval does not set any sort of precedent as each property and project are determined on their own merits.

The Commission finds that work located in the Buffer Zone to the top of a coastal bank that will alter this area is reviewable by the Commission under 310 CMR 10.02 (3) when such activities do not meet the requirements of 310 CMR 10.02 (2)(b) 2.

EXHIBIT A

The Commission finds that that the work will have no significant adverse impact on the resource area if constructed in accordance with the special conditions set forth below.

The Commission finds that there will be no adverse impact to Estimated Habitat and therefore waives compliance with the performance standards at Section XXI. C. 2-5.

The Commission approves the proposed project under the Act and the Bylaw subject to the following special conditions.

Special Conditions under both the Act and the Bylaw

- 1) The Applicant and the Applicant's agent(s) shall adhere to General Conditions 1 through 17 of this Order.
- 2) The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. **The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to issuance of the Certificate of Compliance.**
- 3) The form provided at the end of this Order shall be completed and stamped at the Dukes County Registry of Deeds, after the expiration of the 10-day appeal period and if no request of appeal has been filed with the Department of Environmental Protection. This form shall be returned to the Commission in accordance with General Condition 8, and prior to the commencement of work.
- 4) The Commission has approved the proposed project in accordance with the specifications shown a plan entitled, "Site Plan in West Tisbury, Mass", prepared for Blue Heron LLC by Vincyard Land Surveying & Engineering, Inc., dated January 22, 2019 (the "Project Plan"). All notes on the Project Plan are adopted as additional conditions unless otherwise stated. Where the Commission's orders are more restrictive, the Order shall apply. No deviation from the Project Plan is permitted without prior written approval of the Commission. **Any change to the Project Plan requires prior approval by the Commission. See General conditions No. 13 and No. 14 regarding approval of changes to the Project Plan.**
- 5) It is the responsibility of the Applicant to procure all other applicable federal state and local permits and approvals associated with this project. Should issuance of additional permits result in a change in the project, the provisions of special condition #4 above apply regarding the process for plan changes shall apply.
- 6) It is the responsibility of the Applicant, Applicant's representative, owner and /or successor (s) to ensure that all conditions of this Order are complied with. **A copy of this Order of Conditions including the special conditions and Project Plan shall be included in all construction contracts, subcontracts and specifications and**

EXHIBIT A

shall be available on-site upon commencement and during the performance of any and all construction activities regulated by this Order.

- 7) All site contractors shall review and adhere to these conditions in performing the approved activities. The Applicant or its representative shall obtain a signed receipt from all site contractors stating that they have reviewed and will adhere to this Order. The receipt(s) shall be submitted to the Commission. Any adverse impact the Buffer Zone caused by vehicles, equipment or workers shall be mitigated immediately by the Applicant in consultation with the Commission.
- 8) **Prior to the start of any excavation or construction, the DEP sign and a limit of work line consisting of ridged snow fencing with silt fencing securely stapled and properly installed five (5) feet from the brown shaded area to be graded as shown on the Project Plan and must be in place at the time of the pre-construction site visit. The pre-construction meeting shall be on site involving the contractor conducting the work, the site engineer, the Applicant or their agent, and a member or agent of the Commission to ensure that all parties understand the requirements of this Order and to view the erosion control measures. The pre-construction site visit shall be arranged with the Commission office at least 72 hours in advance of the start of work.**
- 9) No construction activities, storage of equipment or materials or stockpiling of excavated fill shall occur on the water side of the limit of work. Any excavated materials (that are not removed off site) and the top soil to be reused, shall be stockpiled outside the Buffer Zone and stabilized as necessary.
- 10) Site grading and construction shall be scheduled to avoid periods of high surface waters. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
- 11) The project site shall be cleaned at the each work day and a dumpster placed outside the Buffer Zone. All windblown debris shall be collected and not allowed to enter the pond.
- 12) There shall be no activity within the Buffer Zone except within the brown shaded area on the Project Plan.
- 13) The three Eastern Red Cedars within the boundary of Estimate Habitat shown on the Project Plan shall not be removed. **This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.**
- 14) Transplanting of several Eastern Red Cedars within the No-Build Zone (second 25 feet of the Buffer Zone) has been approved under Order of Conditions SE79-389. Note that the removal of the 40-50 Eastern Red Cedar Trees within the No-Disturbance Zone (first 25 feet of the Buffer Zone) was not approved under SE79-389.

EXHIBIT A

- 15) Any landscaping beyond the grading, top dressing and seeding the of the Outer Buffer Zone requires the submittal of a landscaping plan for review and written approval of this board and may requirement an amendment to this Order if additional conditions are required. **This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.**
- 16) No chemical fertilizers, herbicides, pesticides or fungicides shall be used in the Buffer Zone. The Applicant shall abide by the West Tisbury Board of Health Regulations for the application of fertilizers. **This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.**
- 17) A Completed Request for a Certificate of Compliance form:
 1. An as-built survey signed and stamped by a RPE or Land Surveyor, shall be submitted to the Commission upon completion of the project. A statement of any deviations from the Project Plan is required.
 2. A set of post-construction photographs of the work areas, access and project locus immediately after completion.
- 18) In case of emergencies, problems or the need to discuss site conditions with the Commission, call the Board Administrator at 508-696-6404.



**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
and the West Tisbury Wetlands Protection Bylaw and Regulations

Provided by MassDEP:
SE79-394
MassDEP File #

eDEP Transaction #
West Tisbury
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.

West Tisbury

Conservation Commission

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

To:

West Tisbury

Conservation Commission

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

99 Pond View Farm Road (35-1.9)

Project Location

SE79-394

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Dukes

County

Book

Page

for: Blue Heron LLC
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



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number:

Provided by DEP

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

A. Request Information

1. Location of Project

_____	_____
a. Street Address	b. City/Town, Zip
_____	_____
c. Check number	d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	_____
Phone Number	Fax Number (if applicable)	

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

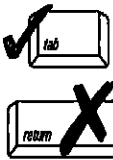
Name

Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	_____
Phone Number	Fax Number (if applicable)	

4. DEP File Number:

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



B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



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

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. 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.

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds

Re: #99 Pond View Farm Rd., West Tisbury Assessor Parcel 35-1.9
VLS&E Job No. 934-10

Photographs





