

August 23, 2022

West Tisbury Conservation Commission  
P. O. Box 278  
West Tisbury, MA 02575

Re: Songwind Nominee Trust #145 Obed Daggett Road, West Tisbury A.P. 6-2  
VLSE Job No. 642-1

Dear Commission Members,

Enclosed please find a Request for Determination of Applicability to confirm resource area delineation for the above referenced property. Our office has worked to design and permit the development of this property since the late 1990's. There is a waterway on the west side of the lot that drains from a wetland/swamp area to the ocean. In 2014 the property owner requested that we review the conditions of the drainageway to confirm that flow was intermittent and not perennial. Our office visited the site August 27 thru August 30, 2014 to document the flow and found that the drainage-way was not flowing for four (4) consecutive days in that period. The observation period was within a normal draught level (non-draught period). We have included our report with the application as well as an assessment from Cooper Environmental on the characteristics of the drainage-way. We request the Commission review our data and confirm our assessment that the drainage-way is intermittent and does not constitute a perennial stream or river. Thank you for your consideration of this matter, please let me know if there are any questions or if you need additional information.

Thank you,

A handwritten signature in black ink, appearing to read 'Reid Silva'.

Reid Silva, PE PLS  
Professional Engineer  
Professional Land Surveyor



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

West Tisbury

City/Town

WPA Form 1- Request for Determination of Applicability

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

A. General Information

Important:

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



1. Applicant:

Michael Minars, Trustee

Name

reid@vlse.net

E-Mail Address

of the Songwind Nominee Trust

Mailing Address

c/o VLS&E, Inc. P. O. Box 421 West Tisbury

City/Town

MA

State

02575

Zip Code

508-693-3774

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Vineyard Land Surveying & Engineering, Inc.

Firm

Reid Silva

Contact Name

reid@vlse.net

E-Mail Address

P. O. Box 421

Mailing Address

West Tisbury

City/Town

MA

State

02575

Zip Code

(508) 693-3774

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the West Tisbury Conservation Commission make the following determination(s). Check any that apply:

- a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:

Name of Municipality

- e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).



# WPA Form 1- Request for Determination of Applicability

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

## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

#145 Obed Dagget Road	West Tisbury
Street Address	City/Town
6	2
Assessors Map/Plat Number	Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

Improved residential lot

---

---

---

---

---

c. Plan and/or Map Reference(s):

Wetland Resource Plan West Tisbury, MA surveyed for Songwind Nominee Trust	8/23/2022
Title	Date
_____	_____
Title	Date
_____	_____

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

This request is to confirm the resource delineation of an intermittent drainage-way. The watercourse has been studied to determine if the waterway is perenial or intermittent. Conditions have been documented indicating the watercourse does not meet the criteria necessary to qualify as a Perenial Stream or River and is an intermittent drainage-way.

---

---

---

---

---

---

---

---

---

---



## WPA Form 1- Request for Determination of Applicability

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

### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

---

---

---

---

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

---

---

---



# WPA Form 1- Request for Determination of Applicability

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

## D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office (see Attachment) were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Songwind Nominee Trust  
Name

c/o Vineyard Land Surveying & Engineering, Inc.  
Mailing Address

P. O. Box 421 West Tisbury  
City/Town

MA 02575  
State Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

*River of State* (Agent)  
Signature of Representative (if any)

August 23, 2022  
Date



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**DEP Regional Addresses**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**Mail transmittal forms and DEP payments, payable to:**

Commonwealth of Massachusetts  
 Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

**DEP Western Region**

436 Dwight Street  
 Suite 402  
 Springfield, MA 01103  
 Phone: 413-784-1100  
 Fax: 413-784-1149

Adams	Colrain	Hampden	Monroe	Pittsfield	Tyringham
Agawam	Conway	Hancock	Montague	Plainfield	Wales
Alford	Cummington	Hatfield	Monterey	Richmond	Ware
Amherst	Dalton	Hawley	Montgomery	Rowe	Warwick
Ashfield	Deerfield	Heath	Monson	Russell	Washington
Becket	Easthampton	Hinsdale	Mount	Sandisfield	Wendell
Belchertown	n	Holland	Washington	Savoy	Westfield
Bernardston	East	Holyoke	New Ashford	Sheffield	Westhampton
Blandford	Longmeadow	Huntington	New Marlborough	Shelburne	West Springfield
Brimfield	w Egremont	Lanesborough	New Salem	Shutesbury	West Stockbridge
Buckland	Erving	Lee	North Adams	Southampton	Whately
Charlemont	Florida	Lenox	Northampton	South Hadley	Wilbraham
Cheshire	Gill	Leverett	Northfield	Southwick	Williamsburg
Chester	Goshen	Leyden	Orange	Springfield	Williamstown
Chesterfield	Granby	Longmeadow	Otis	Stockbridge	Windsor
Chicopee	Granville	Ludlow	Palmer	Sunderland	Worthington
Clarksburg	Great	Middlefield	Pelham	Tolland	
	Barrington		Peru		
	Greenfield				
	Hadley				

**DEP Central Region**

627 Main Street  
 Worcester, MA 01608  
 Phone: 508-792-7650  
 Fax: 508-792-7621  
 TDD: 508-767-2788

Acton	Charlton	Hopkinton	Millbury	Rutland	Uxbridge
Ashburnham	Clinton	Hubbardston	Millville	Shirley	Warren
Ashby	Douglas	Hudson	New Braintree	Shrewsbury	Webster
Athol	Dudley	Holliston	Northborough	Southborough	Westborough
Auburn	Dunstable	Lancaster	Northbridge	Southbridge	West Boylston
Ayer	East	Leicester	North Brookfield	Spencer	West Brookfield
Barre	Brookfield	Leominster	Oakham	Sterling	Westford
Bellingham	Fitchburg	Littleton	Oxford	Stow	Westminster
Berlin	Gardner	Lunenburg	Paxton	Sturbridge	Winchendon
Blackstone	Grafton	Marlborough	Pepperell	Sutton	Worcester
Bolton	Groton	Maynard	Petersham	Templeton	
Boxborough	Harvard	Medway	Phillipston	Townsend	
Boylston	Hardwick	Mendon	Princeton	Tyngsborough	
Brookfield	Holden	Milford	Royalston	Upton	
	Hopedale				

**DEP Southeast Region**

20 Riverside Drive  
 Lakeville, MA 02347  
 Phone: 508-946-2700  
 Fax: 508-947-6557  
 TDD: 508-946-2795

Abington	Dartmouth	Freetown	Mattapoisett	P Provincetown	Tisbury
Acushnet	Dennis	Gay Head	Middleborough	Raynham	Truro
Attleboro	Dighton	Gosnold	Nantucket	Rehoboth	Wareham
Avon	Duxbury	Halifax	New Bedford	Rochester	Wellsfleet
Barnstable	Eastham	Hanover	North	Rockland	West Bridgewater
Berkley	East	Hanson	Attleborough	Sandwich	Westport
Bourne	Bridgewater	Harwich	Norton	Scituate	West Tisbury
Brewster	Easton	Kingston	Norwell	Seekonk	Whitman
Bridgewater	Edgartown	Lakeville	Oak Bluffs	Sharon	Wrentham
Brockton	Fairhaven	Mansfield	Orleans	Somerset	Yarmouth
Carver	Fall River	Marion	Pembroke	Stoughton	
Chatham	Falmouth	Marshfield	Plainville	Swansea	
Chilmark	Foxborough	Mashpee	Plymouth	Taunton	
	Franklin		Plympton		

**DEP Northeast Region**

1 Winter Street  
 Boston, MA 02108  
 Phone: 617-654-6500  
 Fax: 617-556-1049  
 TDD: 617-574-6868

Amesbury	Chelmsford	Hingham	Merrimac	Quincy	Wakefield
Andover	Chelsea	Holbrook	Methuen	Randolph	Walpole
Arlington	Cohasset	Hull	Middleton	Reading	Waltham
Ashland	Concord	Ipswich	Millis	Revere	Watertown
Bedford	Danvers	Lawrence	Milton	Rockport	Wayland
Belmont	Dedham	Lexington	Nahant	Rowley	Wellesley
Beverly	Dover	Lincoln	Natick	Salem	Wenham
Billerica	Dracut	Lowell	Needham	Salisbury	West Newbury
Boston	Essex	Lynn	Newbury	Saugus	Weston
Boxford	Everett	Lynnfield	Newburyport	Sherborn	Westwood
Braintree	Framingham	Malden	Newton	Somerville	Weymouth
Brookline	Georgetown	Manchester-By-	Norfolk	Stoneham	Wilmington
Burlington	Gloucester	The-Sea	North Andover	Sudbury	Winchester
Cambridge	Groveland	Marblehead	North Reading	Swampscott	Winthrop
Canton	Hamilton	Medfield	Norwood	Tewksbury	Woburn
Carlisle	Haverhill	Medford	Peabody	Topsfield	
		Melrose			



Drainage Basin Analysis Unnamed Watercourse  
Vicinity of Obed Daggett Rd.  
West Tisbury

September 26, 2018

Cooper Environmental Services, LLC was requested to perform an assessment of the characteristics of an unnamed watercourse on property abutting the Rattner property off Obed Daggett Rd. in West Tisbury (Assessor's Parcel 6-1). At issue was whether the watercourse would be considered as a perennial stream for purposes of the MA DEP Wetlands Protection Act (WPA) and the Rivers Protection Act (RPA). The site was visited on September 9, 2018 and again on September 26, 2018. No streamflow was observed on those occasions. The latter date was after a period of heavy rainfall. Sustained flow in the watercourse was finally observed on October 20, 2018. A check of the Massachusetts Drought Status website reveals that all of southeast Massachusetts including the Cape and Islands was in the normal range for groundwater and streamflow for August, September and October.

The geologic setting of the Rattner property and the drainage basin is typical of the north shore of Martha's Vineyard. The area is considered to be part of the Martha's Vineyard Moraine deposit which resides at the terminus of the last glacial ice advance. The area is typified by steeply sloping irregular terrain ranging from nearly 200 ft. above mean sea level (MSL) to sea level at the shoreline. The geologic materials are an assortment of glacial till, boulders and re-worked glaciofluvial sands and gravels. Approximately 10% of the watershed is considered to be wetlands that reside in depressions and are supported by perched groundwater rather than a regional static water table. The basin is not dominated by deep stratified drift deposits as would be seen on the Martha's Vineyard outwash plain. The soils in the basin are primarily the East Chop series a well to excessively drained soil series common to this morainal landscape. The wetland soils are generally the Freetown series.

The watershed size was calculated using the USGS Streamstats data base. This analytical tool is the recommended source for such analyses by the Mass. DEP. The basin size was calculated as 0.24 square miles (see attached). This is well below the one square mile required area to sustain 99% stream flow duration within non-stratified drift drainage basins. (see attached).

Site inspections of the watercourse at several locations checked for the DEP specified criteria for perennial streams and found that significant channel scour or exposed mineral deposits were not present. In many locations, grasses, ferns and other forbs were observed growing within the stream bed. In many areas the stream diffuses through wetlands before coalescing into a more defined channel. Areas of localized ponding of water was observed



**COOPER**  
ENVIRONMENTAL  
— SERVICES, LLC —

33 Old Dunham's Corner Way  
Edgartown • MA 02539

Office: 508.627.9586  
Cell: 508.269.8554

coopenv@comcast.net

www.cooper-environmental.com

throughout the study period. The stream conditions were extensively documented by Vineyard Land Surveying and Engineering with numerous photographs taken. (see appendix)

A location was selected at an 18" concrete cross culvert under a dirt driveway. This location was selected due to its position lower in the drainage basin. The location is predicted to be the most likely to sustain flow. Several inspections made during the summer and early fall of 2018. An inspection on September 9, 2018 revealed a dry streambed and stream flow. An inspection on September 26, 2018 after a rain storm (+/- 0.5") revealed ponded water in the waterway but no observed flow. The first inspection where flow was observed was conducted on October 20, 2018 where flow thru the culvert was finally detected. (see photos).

We also reviewed file documentation for the watercourse collected by Vineyard Land Surveying and Engineering. The pertinent contents of their files are contained herein as an appendix. The summary of this data and our own observations leads us to the conclusion that the watercourse in question does not possess the criteria necessary to be considered as a perennial stream under the WPA or the RPA.

Sincerely,

Douglas E. Cooper  
Principal Earth Scientist

attachments



# 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](mailto:info@vlse.net) (f) 508-693-8575

September 12, 2014

Steven Rattner  
998 Fifth Avenue  
New York, NY 10028

RE: Brook along westerly side of Windsong Property, 145 Obed Daggett Road, West Tisbury, MA  
V.L.S.& E. Job No. 642-1

Dear Steven,

On August 27, 28, 29, and 30, 2014 Cody Coutinho of our office visited the brook along the westerly side of the property mentioned above. He took pictures of the brook at 5 locations on each visit. These pictures are attached and show that there was no flow at any of the locations. There is also a Google photo showing the approximate locations of the flags. The following is a short description of each location.

- FLAG 1 This is where the brook comes out onto the beach and into Vineyard Sound. This location was completely dry on all days visited.
- FLAG 2 This spot is about 20 feet up the stream bed from the beach. This location is in a sharp ravine. This location was dry on all days visited.
- FLAG 3 This spot is about halfway between the beach and the first driveway crossing. The stream bed is not as steep in this location and has a more sandy bottom. This location was dry on all days visited.
- FLAG 4 This spot about 100 feet up the stream bed from #3. This area is more swampy and the stream bed is softer. There is a small puddle of water  $\pm$  2 ft. in diameter in the streambed. The stream bed was dry upstream and down stream from this puddle. This puddle did not change and showed no flow on all the days visited.
- FLAG 5 This spot is at the first driveway crossing. The stream bed is muddy and there is another puddle here. This puddle did not change and showed no flow on all the days visited.

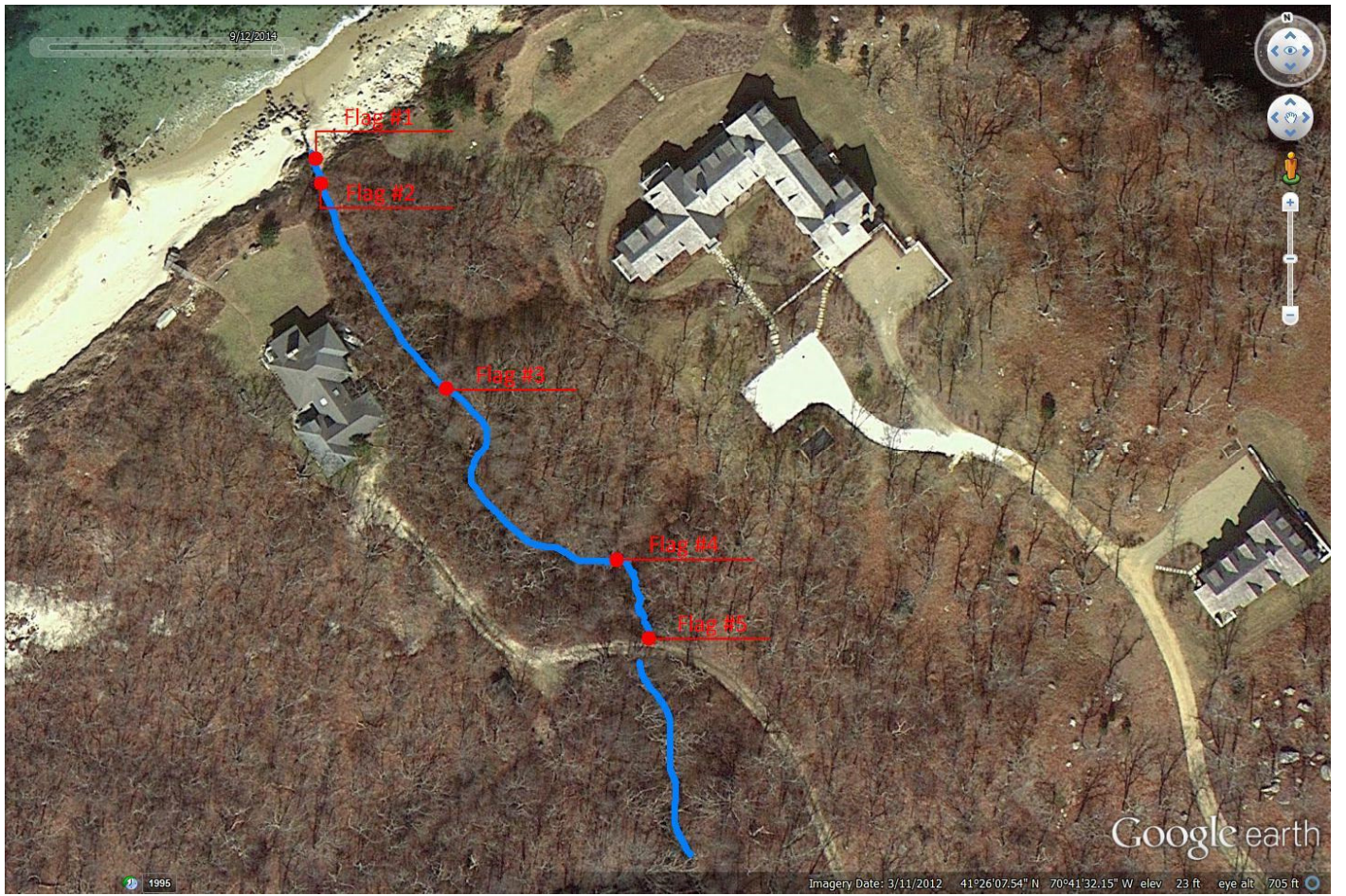
Following the stream bed further up stream showed more of the same. The puddles become more frequent as the stream bed widens out into a swamp. The stream bed under the second driveway crossing had no flow. The swamp had standing water in some places but no observable flow.

If you have any questions, please don't hesitate to call.

Sincerely,

  
Reid G. Silva









RATTNER Flag #1 2014-08-27 13:55













RATTNER Flag #4 2014-08-27 14:10

























RATTNER Flag #5 2014-08-28 14:00

















RATTNER Flag #4 2014-08-29 13:45













RATTNER Flag #2 2014-08-30 11:29





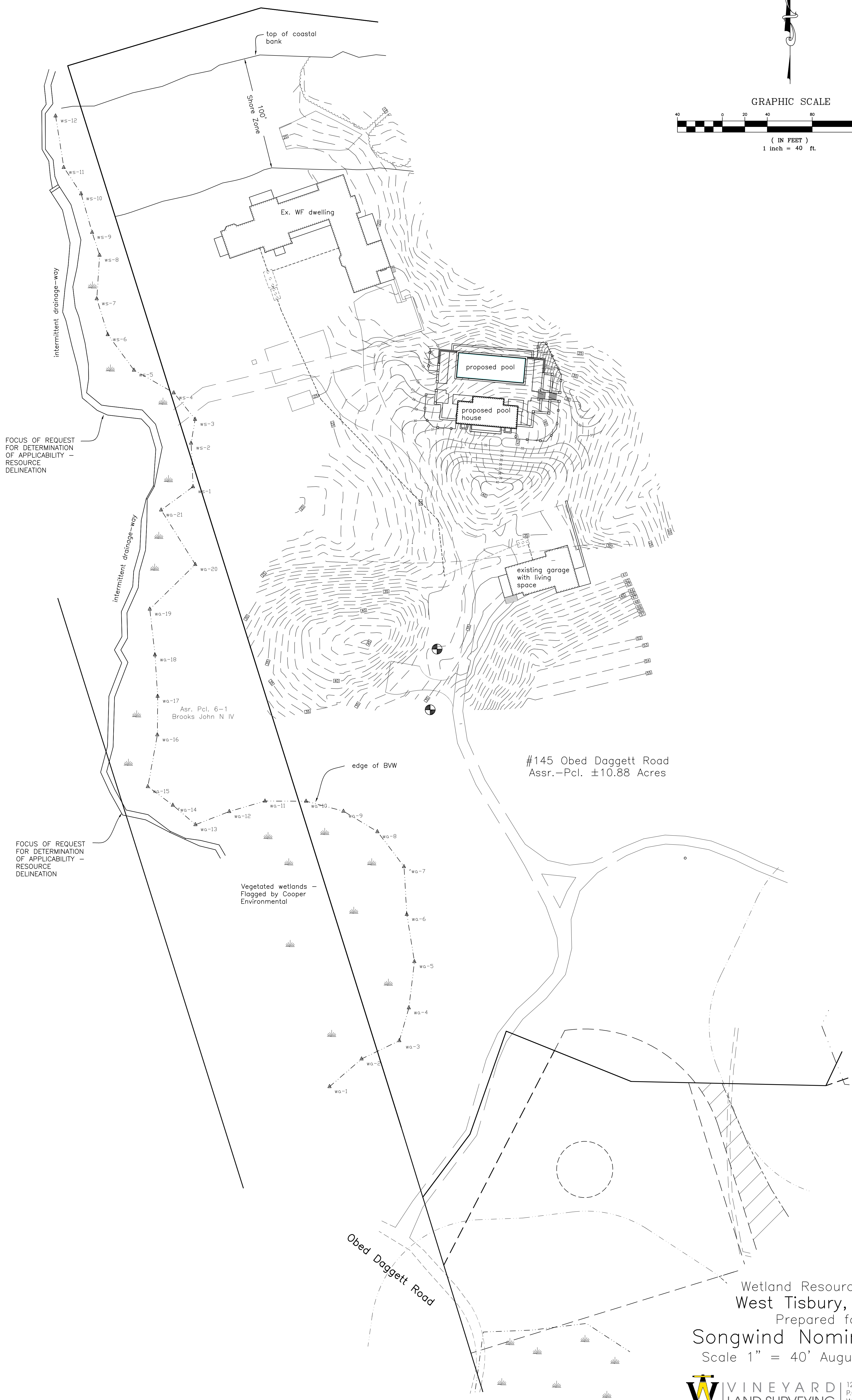
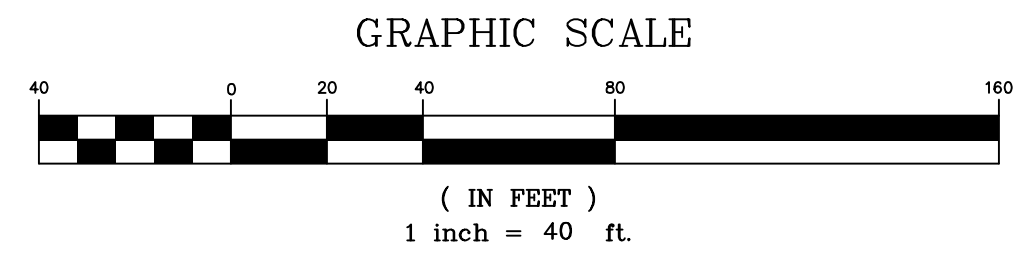


RATTNER Flag #4 2014-08-30 11:39





VINEYARD SOUND  
(tidal)



Wetland Resource Plan  
West Tisbury, Mass.  
Prepared for  
**Songwind Nominee Trust**  
Scale 1" = 40' August 23, 2022

 **VINEYARD  
LAND SURVEYING  
& ENGINEERING**  
12 Cournoyer Road  
P.O. Box 421  
West Tisbury, MA 02575  
P 508-693-3774 F 508-629-0440  
VLSE.net