



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

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March 28, 2024

Christopher Gardner
Town of Hull
253 Atlantic Ave
Hull MA 02045

Project Location: North Nantasket Beach (Phipps through X Streets)
Town: Hull
Project Description: Maintenance of Pedestrian Paths at North Nantasket Beach
DEP File No.: 035-1831
NHESP Tracking No.: 24-17222 (RC-84193); related 17-37071

RE: Notice that additional information is required to take further action on your streamlined application for review pursuant to the WPA (321 CMR 10.37) and MESA (321 CMR 10.18).

Dear Applicant:

On March 1, 2024, the Division of Fisheries and Wildlife’s Natural Heritage & Endangered Species Program (the “Division”) received a streamlined Notice of Intent application with site figures (labeled Town of Hull Drone Survey March 2023) for review of the above referenced project pursuant to the rare wetland wildlife species provisions of the Massachusetts Wetlands Protection Act (WPA) and its implementing regulations (310 CMR 10.37) and the Massachusetts Endangered Species Act (MESA) (M.G.L. c. 131A) and its implementing regulations (321 CMR 10.18).

The MESA is administered by the Division, and prohibits the Take of state-listed species. The Take of state-listed species is defined as “in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat” of state-listed species (321 CMR 10.02).

The Division determined that the proposed project is located within the mapped habitat of the following state-listed species.

Scientific Name	Common Name	Taxonomic Group	MESA Status
<i>Charadrius melodus</i>	Piping Plover	Vertebrate Animal	Threatened

State-listed species and their habitats are protected pursuant to the MESA. Fact sheets for state-listed species can be found at www.mass.gov/nhesp. The Piping Plover is federally protected as Threatened pursuant to the U.S. Endangered Species Act (ESA, 50 CFR 17.11).

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The purpose of the Division's review of the proposed project under the WPA regulations is to determine whether the project will have any adverse effects on the Resource Area Habitats of state-listed species. The purpose of the MESA review is for the Division to determine whether a Take of state-listed species will result from the proposed project. Under 321 CMR 10.18(1), the Division is required to notify the Record Owner of the property where the project is proposed within 30 days whether the submitted application contains the information required to be submitted to the Division pursuant to 321 CMR 10.20, including the applicable review fee. The Division also has the authority under 321 CMR 10.20 to require an applicant to provide additional information beyond the minimum information specified therein.

WETLANDS PROTECTION ACT (WPA) & MASSACHUSETTS ENDANGERED SPECIES ACT (MESA)

This letter is to inform you that the Division has reviewed the materials submitted with your combined application under the WPA (310 CMR 10.37) and MESA (321 CMR 10.18) regulations and has determined that **additional information is required** in order for the Division to complete its review pursuant thereto, as specified below:

1. **Pedestrian Path Management:** As proposed, the project includes a variety of activities associated with pedestrian path management including but not limited to removal of concrete debris/wall remnants, path widening, path maintenance, winterizing, beach mat installation, beach grass plantings, dune repair, snow/sand fence installation, beach clean-up, etc.
 - a. The application should clarify details regarding the design width of pedestrian pathways, methods for reorientation of a path, reasons for increasing path width, timeline and procedures for winter-beach clean-up, extent of removal for buried concrete structures, specify whether dune repair and beach grass plantings are limited to the footprint of the existing pedestrian pathway(s), and clarify how storm overwash material is redistributed to the beach.
 - b. In addition to coordination with the Conservation Administrator, please specify what measures are currently implemented to protect state-listed species for any Pedestrian Path Management activities that occur during April 1 – August 31.
2. **Equipment and Vehicles:** Please provide additional information regarding the equipment and/or vehicular usage on the beach during April 1 – August 31. The information should specify the purpose, frequency, and duration of all equipment and vehicular access. Please also include any measures currently implemented to protect state-listed species during equipment or vehicular use.
3. **State-listed Species Protection and Management:** The Applicant and/or property owner has the responsibility of protecting state-listed species that utilize this section of beach.
 - a. **Protection:** The application does not include specifics relative to the establishment of symbolic fencing for the protection of state-listed species and their habitats, locations for symbolic fencing, the state-listed species utilizing the site, nesting and staging numbers, or onsite threats.
 - b. **Management:** The application does not clearly identify the entity responsible for managing the site in accordance with the Guidelines. The application does not provide sufficient assurance regarding the onsite monitoring and protection of state-listed species associated with maintenance activities and/or equipment usage.

The Division is available for consultation regarding preparing the above information and recommends coordination with our office in advance of submission. After receiving the above information, the Division will continue its review of the proposed project for compliance with the MESA regulations. The Division reserves

the right to request additional information to understand the potential impacts of the proposed project on state-listed species and their habitats.

No work or other activities related to your filing may be conducted at the site until the Division completes its review of the proposed project pursuant to the MESA. If you have any questions concerning this notice, please contact Amy Hoenig, Senior Endangered Species Review Biologist, amy.hoenig@mass.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesse Leddick". The signature is stylized with several loops and a horizontal line at the end.

Jesse Leddick
Assistant Director

cc: MA DEP Southeast Region, Wetlands Section
Chris Krahforst, Town of Hull