



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

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January 18, 2023

Littleton Conservation Commission
PO Box 1305
Littleton, MA 01460

Westford Conservation Commission
55 Main Street
Westford, MA 01886

Matt Silverman
Town of Littleton – Clean Lakes Committee
39 Ayer Road
Littleton, MA 01460

RE: Applicant: Town of Littleton – Clean Lakes Committee
 Project Location: Forge Pond
 Project Description: Annual 3.6 foot Drawdown
 DEP Wetlands File No.: 334-1714 (Westford); 204-0872 (Littleton)
 NHESP File No.: 05-18722

Dear Commissioners & Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (Division) received a Request for Extension of Order of Conditions (Extension) describing the proposed annual drawdown on Forge Pond in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.59). 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). The Division previously issued a determination on this project on October 18, 2018 (2018 Determination).

The Division has determined that this Project will occur **within** the actual habitat of the Blanding's Turtle (*Emydoidea blandingii*), a Threatened turtle species. This species is state-listed pursuant to the Massachusetts Endangered Species Act (MESA, MGL c.131A) and its implementing regulations (321 CMR 10.00). Fact sheets for most state-listed rare species can be found on our website (www.mass.gov/nhesp).

The purpose of the Division's review of the proposed project under the rare species section of 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 Division's review under the MESA regulations is to determine whether a Take of state-listed species will result from the proposed project.

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MA WETLAND PROTECTION ACT

Issuance of an extension to the 2018 Order of Conditions would be consistent with 310 CMR 10.59 provided all conditions in the 2018 Determination, repeated below, are incorporated into the Extension and complied with by the Applicants.

The Division's Fisheries staff also provided the following comments in the 2018 Determination which remain relevant to the Fisheries Interest of the WPA for the Extension.

To minimize potential impacts to fisheries resources, we recommend the proponent follow the guidelines outlined in the Drawdown section of the 2004 Eutrophication and Aquatic Plant Management in Massachusetts Final Generic Environmental Impact Report, specifically:

- Achieve the target drawdown depth by the beginning of December
- Achieve full lake level by the beginning of April
- Keep outflow during drawdown below a discharge equivalent of 4 cfs per square mile of watershed. Once the target water level is achieved, match outflow to inflow to the greatest extent possible, maintaining a stable water level
- Keep outflow during refill above a discharge equivalent to 0.5 cfs per square mile of watershed

MA ENDANGERED SPECIES ACT

Based on a review of the information that was provided and the information contained in our database, the Division has determined that this project, as currently proposed, **must be conditioned in order to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a))**. The project shall comply with the following conditions:

1. **Time of Year Restriction.** In order to avoid impacts to Blanding's Turtles in overwintering habitats affected by the drawdown, the drawdown shall be initiated by 15 October.
2. **Drawdown Depth.** The drawdown shall be limited to 3.6 feet, as this is the present capacity of the outlet structure.
3. **Upon filing for any Renewal, Extension, or Amendment of the Orders of Conditions.** The Applicant *shall* contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife prior to issuance of a Renewal, Extension or Amendment to the Order of Conditions.
4. **Authorization Duration.** This authorization is valid for 5 years from the date of issuance and limited to the project described herein. Thereafter, the applicant shall re-file under the MESA.

Provided the applicant complies with all the above noted conditions, the project will not result in a prohibited Take pursuant to the MESA.

We note that all work is subject to the anti-segmentation provisions (321 CMR 10.16) of the MESA. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to

further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats pursuant to the MESA and WPA, and additionally provides guidance to the Conservation Commission relative to impacts to the Fisheries Interest of the WPA. If you have any questions regarding this letter please contact Misty-Anne Marold, Senior Endangered Species Review Biologist, at (508) 389-6356, misty-anne.marold@mass.gov.

Sincerely,

A handwritten signature in black ink, reading "Everose Schlüter". The signature is written in a cursive, flowing style.

Everose Schlüter, Ph.D.
Assistant Director

cc: Chris Yule, Yule Development Co.
David Barr, Friends of Forge Pond
MA DEP Central Region Office, Wetlands
MA DEP Northeast Regional Office, Wetlands