



DIVISION OF
FISHERIES & WILDLIFE

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August 31, 2023

DutchCo Builders, LLC
8 Mason Brook Lane
Littleton, MA 01460

RE: Applicant: DutchCoBuilders, LLC
Project Location: 46 Hartwell Ave. (Book 79438/ Page 166), Littleton
Project Description: 6 Lot Subdivision
NHESP File No.: **23-5202 (22-40926)**

Dear Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the “Division”) received the “MESA Review- Supplemental Information” prepared by Goddard Consulting (dated May 5, 2023, Revised July 31, 2023) for review pursuant to the Massachusetts Endangered Species Act (MESA) (MGL c.131A) and its implement regulations (321 CMR 10.00).

As proposed, the project includes the construction of six (6) residential dwellings with associated access drives, utilities, and site work resulting in a maximum total disturbance of ± 3.48 acres on a ± 10.03 acre parcel (Southern Middlesex Registry of Deeds Book 79438/ Page 166, the Property). The Property is composed of coniferous and hardwood forests, forested wetlands, a pond, maintained lawn/landscaped areas, and a residential dwelling with accessory structures including driveways, other paved areas, and an isolated wetland that is likely functioning as a stormwater feature. As proposed, approximately ± 1.54 acres of disturbance will occur within the Property's existing disturbed/developed areas. The project proposes to mitigate for impacts by removing invasive species restoring/replanting the management area with native plants including saplings. In addition, the applicant proposes to record a Deed Restriction on a total of ± 6.55 acres associated with the portions of the lots that will not be developed as established by the Deed Restriction Plan of Land. The applicant also proposes to voluntarily deed 2.11 acres (designated as "Parcel A" on the Plans) to the Town of Littleton.

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 has determined that this Project, as currently proposed, will occur **within** the actual habitat of the following species:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Ambystoma laterale</i> pop. 1	Blue-spotted salamander	Amphibian	Special Concern

This species and their habitats are protected in accordance with the rare species provisions of the WPA and the MESA.

Based on the information provided and the information contained in our database, the Division finds that this project, as currently proposed, must be conditioned to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a)). **To avoid a prohibited Take of state-listed species, the conditions attached to this letter must be met.**

Provided the attached conditions are fully implemented and there are no changes to the project plans, this project will not result in a Take of state-listed species. 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. If you have any questions regarding this letter please contact Alexandra Echandi, Endangered Species Review Biologist at alexandra.echandi@mass.gov.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

cc: Steven Riberdy, Goddard Consulting

Attachment: List of conditions

List of Conditions

Applicant: DutchCoBuilders, LLC
 Project Location: 46 Hartwell Ave. (Book 79438/ Page 166)
 Project Description: 6 Lot Subdivision
NHESP File No.: **23-5202 (22-40926)**

Approved Plan: Site Plan (April, 2023, Revised July 17, 2023)
Deed Restriction Plan of Land in Littleton, Mass. (July, 2023)

To avoid a prohibited Take of state-listed species, the following condition(s) must be met:

1. **Record Letter and Plan:** Prior to the start of work or as otherwise approved by the Division, the Applicant shall (a) record this letter, the Site Plan and the Deed Restriction Plan in the Middlesex County Registry of Deeds or the Land Court for the district in which the property is located so as to become a record part of the chain of title for the property; and (b) provide the Division with proof of said recordation.
2. **Delineation of the Limits of Work:** Prior to the start of Work, the silt fence (orange construction fencing, or other approved fencing) shall be installed in the location delineated on the Site Plan. The fencing shall be maintained as the limit of the approved Development Envelope. A Massachusetts Registered Land Surveyor shall provide certification to the Division, in writing, that the fencing has been installed as shown on the Site Plan. The fencing must be maintained in good condition for the duration of work. Any modification to the location must receive prior written approval from the Division. Work outside of the Development Envelope is not approved herein.
3. **Permanent Monumentation:** Prior to the start of work or as otherwise approved by the Division, the Applicant shall install permanent monuments shown on the Site Plan. A Massachusetts Registered Land Surveyor shall certify to the Division, in writing, that permanent monuments have been installed in accordance with the site plan. Said monumentation shall be maintained in good condition and repaired or replaced, as necessary, by the property owner.
4. **Amphibian Friendly Sediment and Erosion Controls, mesh materials and fencing:** Sediment and/or erosion controls placed around the western and northern project boundary shall be designed to be passable by amphibians. In addition, netless rolled erosion control products shall be utilized whenever mesh materials are necessary. No presence, stockpiling, or use of permanent or temporary mesh materials with a nominal opening between 1/4" and 2" shall be permitted, unless otherwise approved in writing by the Division or fully encased in a non-penetrable wrap or surface (e.g. poured concrete over rebar mesh).

If sections of continuous fencing longer than 50' linear feet are required by the Conservation Commission, critter gaps shall be installed to allow for amphibian passage.

<p>5. Compliance Report: Within thirty (30) days of the completion of work or as otherwise approved by the Division, the Applicant shall submit a brief written report to the Division documenting compliance with the condition(s) required herein, including representative photographs or supplemental documentation as necessary. The report shall also provide an update on the status of the Deed Restrictions.</p>
<p>6. Remove Erosion Controls: All erosion and sedimentation controls shall be removed and properly disposed of after construction is completed and as soon as surrounding areas are stabilized.</p>