



## DIVISION OF FISHERIES & WILDLIFE

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MASSWILDLIFE

December 15, 2023

Littleton Electric Light and Water Department  
39 Ayer Road  
Littleton, Massachusetts 01460

RE:      Applicant:      Littleton Electric Light and Water Department  
Project Location:      Multiple Streets  
Project Description: Water source- raw water and finished water main  
**NHESP File No.:**      **23-4202**

Dear Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received the MESA Project Review Checklist and supporting documentation for review pursuant to the Massachusetts Endangered Species Act (MESA) (MGL c.131A) and its implementing regulations (321 CMR 10.00). The filing submitted to the Division in May 2023 described the construction of a raw and finished water main extension. In August 2023, the Applicants submitted an Environmental Notification Form (ENF) for the project, which described the project to be the construction of a raw and finished water main extension, and the development of a new municipal well referred to as the Taylor Street Well. The ENF also described that the project will need an Interbasin Transfer Act approval and has filed for an "Interbasin Transfer Act - Request for Determination of Insignificance".

In response to the MESA filing and MEPA filing, the Division required the submission of additional information related to both aspects of the proposed project. At this time, the Division has received information satisfying our requests for the water main, but our review of the Taylor Street Well remains ongoing. Notwithstanding the anti-segmentation provisions of the MESA (321 CMR 10.16), the Division elects to allow the water main work, as described herein, to proceed in advance of completing our review of the Taylor Street Well. MESA Review of the Taylor Street Well's installation and utilization has not yet been completed. This determination letter's approval applies only to the installation of the water main extension. The Division reserves the right to consider any impacts from the water main project cumulatively with the Taylor Street Well.

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:

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**MASSWILDLIFE**

<u>Scientific Name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Sturnella magna</i>	Eastern Meadowlark	Bird	Special Concern
<i>Emydoidea blandingii</i>	Blanding's Turtle	Reptile	Threatened
<i>Ambystoma laterale</i> pop. 1	Blue-spotted Salamander	Amphibian	Special Concern

These species and their habitats are protected in accordance with the MESA.

Based on the information provided and the information contained in our database, the Division finds that installation of the water mains, 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 Tim McGuire, Endangered Species Review Biologist at (508) 389-6366 or timothy.mcguire2@mass.gov.

Sincerely,



Everose Schlüter, Ph.D.  
Assistant Director

cc:

Attachment: List of Conditions

## List of Conditions

Applicant: Littleton Electric Light and Water Department  
Project Location: Multiple Streets  
Project Description: Water source- raw water and finished water main  
**NHESP File No.:** 23-4202  
**Heritage Hub Form ID:** RC-60246  
**Approved Plan:** Raw Water Plan Cross Country

Plans:

- (1) Raw Water Plan Cross Country
- (2) Beaver Brook Directional Drill
- (3) Frac-Out Contingency Plan for Horizontal Directional Drilling

(1-3, collectively, the Site Plans)

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

1. **Turtle Protection Plan:** Prior to the start of work (including vegetation clearing or soil disturbance), the Applicant shall submit a Blanding's Turtle Protection Plan to the Division for review and written approval. Said Plan shall detail procedures for protecting state-listed turtles during construction, and be prepared and implemented by a qualified, Division-approved wildlife biologist. The Division is available for consultation on Plan development and can provide contact information for qualified biologists. The Division-approved Plan shall be implemented as written; any proposed changes to the Plan must be submitted to the Division for review and written approval prior to implementation of said changes. By December 31st of any year in which work occurs, the qualified biologist shall submit: a) a summary report to the Division detailing project status and compliance with the Plan; and b) any observations of state-listed turtles at <https://www.mass.gov/how-to/report-rare-species-vernal-pool-observations>.
2. **Authorization Duration:** This authorization is valid for 5 years from the date of issuance. Work may be completed at any time during this 5-year period in compliance with the conditions herein. Thereafter, the Applicant must re-file pursuant to the MESA.
3. **Use of Native Species:** Unless otherwise approved in writing by the Division, all seed and plantings not thereafter maintained as lawn shall be native to Middlesex County, Massachusetts, as provided in The Vascular Plants of Massachusetts: A County Checklist, First Revision (Dow Cullina, Connolly, Sorrie & Somers, 2011).
4. **Restoration or Stabilization:** The Division does not approve of the planting of state-listed species, even if the seeds are sourced outside of Massachusetts. Please carefully review seed mixes at the time of purchase as the specific composition and mixes change within a year (<https://www.mass.gov/info-details/list-of-endangered-threatened-and-special-concern-species#plants>).
5. **Limits of Work:** No work or alteration to the soil, surface, or vegetation shall occur outside of the limits of work shown on the Site Plans unless otherwise approved in writing in advance by the Division.
6. **Drill Fluid Release or any impact to Resource Area:**
  - a. The **Frac-Out Contingency Plan for Horizontal Directional Drilling** shall be implemented as described.
  - b. The Contingency Plan shall be either modified to specifically list the Division and the qualified biologist as notified parties or a rider/addendum attached with a specific contact list including the Division, with relevant

phone and emails (Timothy McGuire, 508-389-6366, timothy.mcguire2@mass.gov). The final document shall be included in the contractor's packet and made available onsite at all times during work.

c. Should the project result in direct Resource Area impacts beyond those already described in the Notice of Intent, the Division retains the right to require full restoration of impacted areas and, at the Division's sole discretion, an 'after-the-fact' Conservation & Management Permit pursuant to 321 CMR 10.23 (CMP). In such a circumstance, the Applicant will be required to meet the performance standard to achieve a long-term Net Benefit. Projects resulting in a Take of state-listed species may only be permitted if they meet the performance standards for a CMP. The proponent must demonstrate that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) the applicant has adequately assessed alternatives to both temporary and permanent impacts to state-listed species; (b) an insignificant portion of the local population would be impacted by the project; and (c) the applicant agrees to carry out a conservation and management plan that provides a long-term Net Benefit to the conservation of the state-listed species impacted.