



DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

MASSWILDLIFE

May 08, 2024

Steven Breitmaier
14 Patricia Drive
Ayer, Massachusetts 01432

Littleton Conservation Commission
PO Box 1305
Littleton, MA 01460

RE: Applicant: Steven Breitmaier
Project Location: 4 Spectacle Pond Road
Project Description: Commercial building, driveway, and parking
DEP Wetlands File No.: -
NHESP File No.: **24-18372**

Dear Commissioners and Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.58(4)(b)). 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 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>Emydoidea blandingii</i> | Blanding's Turtle | Reptile | Threatened |

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

Wetlands Protection Act (WPA)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not adversely affect** the actual Resource Area Habitat of state-protected rare wildlife species. Therefore, it is our opinion that this project meets

MASSWILDLIFE

the state-listed species performance standard for the issuance of an Order of Conditions.

Please note that this determination addresses only the matter of rare wildlife habitat and does not pertain to other wildlife habitat issues that may be pertinent to the proposed project.

Massachusetts Endangered Species Act (MESA)

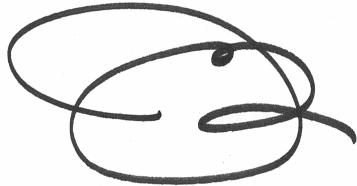
The MESA is administered by the Division, and prohibits the Take of state-listed species. The Take of state-listed species is defined as “in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, 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).

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 Melany Cheeseman, Endangered Species Review Assistant, at Melany.Cheeseman@mass.gov, (508) 389-6357.

Sincerely,



Jesse Leddick
Assistant Director

cc:

Attachment: List of Conditions

List of Conditions

Applicant: Steven Breitmaier
Project Location: 4 Spectacle Pond Road
Project Description: Commercial building, driveway, and parking
NHESP File No.: **24-18372**
Heritage Hub Form ID: RC-85565
Approved Plan: **Notice of Intent Plan 4 Spectacle Pond Road**
Plan date: 3/11/24 Revised Date: N/A

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. Please note that protective measures for state-listed turtles are required for any construction activities occurring between April 15 and October 15 of any year unless otherwise approved by the Division. 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>.