

Appendix C – Agency Correspondence



DEC 19 '08

Division of Fisheries & Wildlife F.S.&T.

MassWildlife

Wayne F. MacCallum, *Director*

12/17/2008

Jennifer Shemowat
Fay, Spofford & Thorndike
5 Burlington Woods
Burlington MA 01803

RE: Project Location: Orleans Center to South Orleans
Town: ORLEANS
NHESP Tracking No.: 08-25974

To Whom It May Concern:

Thank you for contacting the Natural Heritage and Endangered Species Program ("NHESP") of the MA Division of Fisheries & Wildlife for information regarding state-listed rare species in the vicinity of the above referenced site. Based on the information provided, this project site, or a portion thereof, is located **within** *Priority Habitat* (PH) and *Estimated Habitat* (EH) as indicated in the *Massachusetts Natural Heritage Atlas* (13th Edition). Our database indicates that the following state-listed rare species have been found in the vicinity of the site:

Priority Habitat 15 (PH 15) and Estimated Habitat 79 (EH79)

<u>Scientific name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Terrapene carolina</i>	Eastern Box Turtle	Reptile	Special Concern
<i>Malaclemys terrapin</i>	Diamond-backed Terrapin	Reptile	Threatened
<i>Carex mitchelliana</i>	Mitchell's Sedge	Plant	Threatened
<i>Spartina cynosuroides</i>	Salt Reedgrass	Plant	Threatened

Priority Habitat 1112 (PH 1112) and Estimated Habitat 864 (EH864)

<u>Scientific name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Papaipema sulphurata</i>	Water-Willow Stem Borer	Butterflies and Moths	Threatened
<i>Sagittaria teres</i>	Terete Arrowhead	Plant	Special Concern
<i>Lipocarpa micrantha</i>	Dwarf Bulrush	Plant	Threatened
<i>Sabatia kennedyana</i>	Plymouth Gentian	Plant	Special Concern

Priority Habitat 729 (PH 729) and Estimated Habitat 665 (EH665)

<u>Scientific name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Enallagma laterale</i>	New England Bluet	Damselfly	Special Concern

Priority Habitat 1234 (PH 1234) and Estimated Habitat 685 (EH685)

<u>Scientific name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Enallagma recurvatum</i>	Pine Barrens Bluet	Damselfly	Threatened
<i>Anax longipes</i>	Comet Darner	Dragonfly	Special Concern
<i>Sabatia kennedyana</i>	Plymouth Gentian	Plant	Special Concern

www.masswildlife.org

Division of Fisheries and Wildlife

Field Headquarters, North Drive, Westborough, MA 01581 (508) 389-6300 Fax (508) 389-7891

An Agency of the Department of Fish and Game

Priority Habitat 278 (PH 278) and Estimated Habitat 174 (EH 174)

<u>Scientific name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
Terrapene carolina	Eastern Box Turtle	Reptile	Special Concern

The species listed above are protected under the Massachusetts Endangered Species Act (MESA) (M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00). State-listed wildlife are also protected under the state's Wetlands Protection Act (WPA) (M.G.L. c. 131, s. 40) and its implementing regulations (310 CMR 10.00). Fact sheets for most state-listed rare species can be found on our website (www.nhesp.org).

Please note that projects and activities located within Priority and/or Estimated Habitat must be reviewed by the NHESP for compliance with the state-listed rare species protection provisions of MESA (321 CMR 10.00) and/or the WPA (310 CMR 10.00).

Wetlands Protection Act (310 CMR 10.00)

If the project site is within Estimated Habitat and a Notice of Intent (NOI) is required, then a copy of the NOI must be submitted to the NHESP so that it is received at the same time as the local conservation commission. If the NHESP determines that the proposed project will adversely affect the actual Resource Area habitat of state-protected wildlife, then the proposed project may not be permitted (310 CMR 10.37, 10.58(4)(b) & 10.59). In such a case, the project proponent may request a consultation with the NHESP to discuss potential project design modifications that would avoid adverse effects to rare wildlife habitat.

A streamlined joint MESA/WPA review process is now available. When filing a Notice of Intent (NOI), the applicant may now file concurrently under the MESA on the same NOI form and qualify for a 30-day streamlined joint review. For a copy of the revised NOI form, please visit the MA Department of Environmental Protection's website: <http://www.mass.gov/dep/water/approvals/wpaform3.doc>.

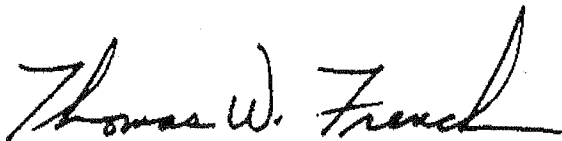
MA Endangered Species Act (M.G.L. c. 131A)

If the proposed project is located within Priority Habitat and is not exempt from review (see 321 CMR 10.14), then project plans, a fee, and other required materials must be sent to NHESP Regulatory Review to determine whether a probable "take" under the MA Endangered Species Act would occur (321 CMR 10.18). Please note that all proposed and anticipated development must be disclosed, as MESA does not allow project segmentation (321 CMR 10.16). For a MESA filing checklist and additional information please see our website: www.nhesp.org ("Regulatory Review" tab).

We recommend that rare species habitat concerns be addressed during the project design phase prior to submission of a formal MESA filing, as avoidance and minimization of impacts to rare species and their habitats is likely to expedite endangered species regulatory review.

This evaluation is based on the most recent information available in the Natural Heritage database, which is constantly being expanded and updated through ongoing research and inventory. If you have any questions regarding this letter please contact Amy Coman, Endangered Species Review Assistant, at (508) 389-6364.

Sincerely,

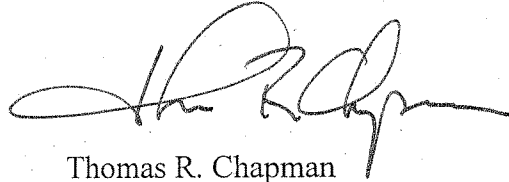


Thomas W. French, Ph.D.
Assistant Director

and location of the proposed activity that should be provided to us for further informal consultation can be found at the above-referenced site.

Thank you for your coordination. Please contact Anthony Tur at 603-223-2541 if we can be of further assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tom Chapman", written in a cursive style.

Thomas R. Chapman
Supervisor
New England Field Office