



MASSWILDLIFE

# DIVISION OF FISHERIES & WILDLIFE

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April 11, 2022

Val Shvetz  
80 River Road  
South Hadley, MA 01075

South Hadley Conservation Commission  
Town Hall Room 204  
116 Main Street  
South Hadley, MA 01075

Project Location: 80 River Road  
Town: South Hadley  
Project Description: Construction and use of a dock  
MA DEP Wetlands No.: 288-0477  
NHESP Tracking No.: 21-40412

**RE: Notice that your application for MESA review under 321 CMR 10.18 is incomplete, and requires submission of additional information**

Dear Ms. Shvetz and Commissioners:

The Natural Heritage & Endangered Species Program and the Fisheries 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) & 10.59). The Division also received the MESA Review Checklist and supporting documentation for review as required by the MA Endangered Species Act Regulations (321 CMR 10.18, MESA).

The Division has determined that the proposed project is located within habitat of the following state-listed species:

Scientific Name	Common Name	Status	Name Category
<i>Elantine americana</i>	American Waterwort	Endangered	Vascular Plant
<i>Nuphar microphylla</i>	Tiny Cow-lily	Endangered	Vascular Plant

State-listed species and their habitats are protected pursuant to the MESA. Fact sheets for state-listed species can be found on our website, [www.mass.gov/nhesp](http://www.mass.gov/nhesp).

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. The purpose of the Division's review of the proposed project under the WPA regulations is to determine whether the project will have any adverse effects on the Resource Areas Habitats of state-listed species.

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**MA 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 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.

**No work or other activities related to your filing may be conducted anywhere on the project site until the Division completes its review pursuant to the MESA, as required below.**

**MA ENDANGERED SPECIES ACT (MESA)**

This letter is to inform you that the Division has reviewed the materials submitted with your application for review under 321 CMR 10.18 for completeness and determined that **the filing is incomplete** because it does not contain all the minimum information specified in 321 CMR 10.20. Consequently, the following information must be submitted to the Division to initiate review on your application:

- 1) **Information sufficient to demonstrate that the Applicant is the Record Owner, as defined in 321 CMR 10.02, of each property upon which the project or activity is proposed.** Sufficient information must include a written instrument or recorded deed demonstrating that the Applicant holds legal or equitable interest, right or title to said property, or written authorization from the Record Owner.

According to the L3 Parcel data and town assessor's database, there is a strip of land between your client's lot and the water. That strip is part of parcel 22-1 owned by Holyoke Gas & Electric (HGE). On the submitted plan, all work west of your client's property line (~west of the "E" in WIDE) is located on HGE lands. Therefore, HGE needs to approve of the MESA filing in writing as owners of the land upon which work is proposed, unless your client has a signed easement for the proposed project in place for this site.

This letter additionally informs you that the Division has also determined that **additional information is required** pursuant to 321 CMR 10.18, as specified below:

- 2) **Required Botanical Survey – Prior to Start of Construction or Use of the Dock.** The survey shall be performed within all suitable habitat on the subject properties associated with the project. The survey shall be performed at an appropriate time(s) of year by a qualified botanist who has field experience identifying these species, and should be performed in accordance with the "Endangered Species Habitat Assessment and Survey Guidelines: Plants" document found on our website at: <https://www.mass.gov/doc/state-listed-species-habitat-assessment-and-survey-guidelines-plants/download>  
The resume(s) of the individual(s) selected to perform the survey must be provided to the Division for approval prior to initiation of field work. The botanist shall submit a time-table for surveys as well as a written survey protocol to the Division for written approval prior to initiation of field work. The survey protocol shall list the specific taxonomic characteristics for definitive identification as well as the characteristics of similar or easily confused species. Tiny Cow-lily can typically be located and identified in mid-June through mid-August; American Waterwort can be located and identified mid-August through September.

After receiving the above requested information, the Division will review the file for completeness and, if complete, will initiate review the proposed project for compliance with the state-listed species provisions of the MESA regulations. The Division reserves the right to request additional information to understand the potential impacts of the proposed project on state-listed species and their habitats.

This partial determination addresses only the matter of the rare wetland wildlife species provisions under the MA Wetlands Project Act. **The MESA review is still ongoing, and issuance of an Order of Conditions is not sufficient for the project to initiate work.** If you have any questions, please contact Misty-Anne Marold, Senior Endangered Species Review Biologist (misty-anne.marold@mass.gov).

Sincerely,



Everose Schlüter, Ph.D.  
Assistant Director

cc: Michael McHugh, MassDEP, Western Regional Office, Wetlands & Waterways  
Mary Grover, MassDEP, Western Regional Office, Wetlands & Waterways  
Michael Mocko