# Notice of Intent (NOI) for coverage under Small MS4 General Permit



Part I: General Conditions

## General Information

Name of Municipality or Organization: Town of Boxborough State: MA

EPA NPDES Permit Number (if applicable): MA941183

## Primary MS4 Program Manager Contact Information

Name: Adam L. Duchesneau, AICP Title: Town Planner

Street Address Line 1: 29 Middle Road

Street Address Line 2:

City: Boxborough State: MA Zip Code: 01719

Email: ADuchesneau@Boxborough-MA.gov Phone Number: (978) 264-1723

Fax Number: (978) 264-3127

## Other Information

Stormwater Management Program (SWMP) Location (web address or physical location, if already completed):

## Eligibility Determination

Endangered Species Act (ESA) Determination Complete? Yes

Eligibility Criteria (check all that apply): ☐ A ☒ B ☐ C

National Historic Preservation Act (NHPA) Determination Complete? Yes

Eligibility Criteria (check all that apply): ☒ A ☐ B ☐ C

☑ Check the box if your municipality or organization was covered under the 2003 MS4 General Permit

## MS4 Infrastructure (if covered under the 2003 permit)

**Estimated Percent of Outfall Map Complete?** *(Part II, III, IV or V, Subpart B.3.(a.) of 2003 permit)* 90%

If 100% of 2003 requirements not met, enter an estimated date of completion (MM/DD/YY): 06/30/19

Web address where MS4 map is published:

*If outfall map is unavailable on the internet an electronic or paper copy of the outfall map must be included with NOI submission (see section V for submission options)*

## Regulatory Authorities (if covered under the 2003 permit)

**Illicit Discharge Detection and Elimination (IDDE) Authority Adopted?** *(Part II, III, IV or V, Subpart B.3.(b.) of 2003 permit)* Yes

Effective Date or Estimated Date of Adoption (MM/DD/YY): 08/22/07

**Construction/Erosion and Sediment Control (ESC) Authority Adopted?** *(Part II,III,IV or V, Subpart B.4.(a.) of 2003 permit)* Yes

Effective Date or Estimated Date of Adoption (MM/DD/YY): 04/11/11

**Post- Construction Stormwater Management Adopted?** *(Part II, III, IV or V, Subpart B.5.(a.) of 2003 permit)* Yes

Effective Date or Estimated Date of Adoption (MM/DD/YY): 04/11/11

# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part II: Summary of Receiving Waters

Please list the waterbody segments to which your MS4 discharges. For each waterbody segment, please report the number of outfalls discharging into it and, if applicable, any impairments.

*Massachusetts list of impaired waters:* *Massachusetts 2014 List of Impaired Waters-* http://www.mass.gov/eea/docs/dep/water/resources/07v5/14list2.pdf

Check off relevant pollutants for discharges to impaired waterbodies (see above 303(d) lists) without an approved TMDL in accordance with part 2.2.2.a of the permit. List any other pollutants in the last column, if applicable.

| Waterbody segment that receives flow from the MS4 | Number of outfalls into receiving water segment | Chloride | Chlorophyll-a | Dissolved Oxygen/ DO Saturation | Nitrogen | Oil & Grease/ PAH | Phosphorus | Solids/ TSS/ Turbidity | E. coli | Enterococcus | Other pollutant(s) causing impairments |
|---|---|---|---|---|---|---|---|---|---|---|---|
| MA84B-05 Beaver Brook | 1 | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | |
| Guggins Brook | 3 | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | |
| Unnamed tributary to Guggins Brook | 3 | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | |
| Unnamed tributary to Halfmoon Meadow Brook | 2 | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | |
| | | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary

Identify the Best Management Practices (BMPs) that will be employed to address each of the six Minimum Control Measures (MCMs). For municipalities/organizations whose MS4 discharges into a receiving water with an approved Total Maximum Daily Load (TMDL) and an applicable waste load allocation (WLA), identify any additional BMPs employed to specifically support the achievement of the WLA in the TMDL section at the end of part III.

For each MCM, list each existing or proposed BMP by category and provide a brief description, responsible parties/departments, measurable goals, and the year the BMP will be employed (public education and outreach BMPs also requires a target audience). **Use the drop-down menus in each table or enter your own text to override the drop down menu.**

### MCM 1: Public Education and Outreach

| **BMP Media/Category** (enter your own text to override the drop down menu) | **BMP Description** | **Targeted Audience** | **Responsible Department/Parties** (enter your own text to override the drop down menu) | **Measurable Goal** | **Beginning Year of BMP Imple-mentation** |
|---|---|---|---|---|---|
| Brochures/Pamphlets | Distribute fact sheets or brochures on pet waste pickup with dog licenses. | Residents | Town Clerk | Provide information with all applications and renewals. | 2018 |
| Web Page | Provide web information on septic system maintenance, illicit discharges, pet waste disposal, lawn care, pesticide and fertilizer use, grass clippings and leaf litter disposal, car washing, and use of environment-ally friendly products. | Residents | Information Technology, Planning Board | Continue to update and maintain the websites. | 2018 |
| Brochures/Pamphlets | Distribute brochures regarding illicit storm drain dumping, private septic system and well maintenance, pet waste disposal, lawn care, pesticides and fertilizers, and Hazardous Waste Collection Day at Town events. | Residents | Conservation Commission, Board of Health, Planning Board, Depar | Continue to provide information at Town events and continue to make educational materials available to the residents at town events and meetings. | 2018 |

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|---|---|---|---|---|---|
| Web Page | Provide web information on pesticide and fertilizer use, grass clippings and leaf litter disposal, building maintenance, salt usage, storage of materials and wastes, car washing, benefits of infiltration, and use of environmentally friendly products. | Businesses, Institutions, and Commercial Facilities | Information Technology, Planning Board | Continue to update and maintain the websites. | 2018 |
| Web Page | Provide web information on erosion and sediment control, Low Impact Development, and the NPDES Construction General Permit. | Developers (construction) | Information Technology, Planning Board | Creation of website with periodic updates. | 2018 |
| Brochures/Pamphlets | Distribute fact sheets or brochures on erosion and sediment control with permit applications. | Developers (construction) | Planning Board, Zoning Board, Building Department, Conservatior | Provide information with all applications | 2018 |
| Web Page | Provide web information on equipment maintenance and inspection, material storage, solid waste handling, salt usage, benefits of onsite infiltration, management of parking lot surfaces, and EPA's MSGP. | Industrial | Information Technology, Planning Board | Creation of website with periodic updates. | 2018 |
| Social Media | Provide relevant stormwater information to different audiences via social media. | Residents, Businesses, Institutions, Commercial Facilities, Developers (construction), Industrial | Information Technology | Follow statewide "Think Blue" campaign on social media platforms. | 2019 |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

### MCM 2: Public Involvement and Participation

| BMP Categorization | Brief BMP Description (enter your own text to override the drop down menu) | Responsible Department/Parties (enter your own text to override the drop down menu) | Additional Description/ Measurable Goal | Beginning Year of BMP Imple-mentation |
|---|---|---|---|---|
| Public Review | SWMP Review | Information Technology, Planning Board | Allow annual review of stormwater management plan and posting of stormwater management plan on website. | 2018 |
| Public Participation | Develop and upload SWMP to the Town website and provide a link t | Information Technology, Planning Board | Allow public to comment on stormwater management plan annually. | 2018 |
| Public Participation | Land Stewardship Program for Conservation Lands | Conservation Commission | Continue to evaluate drainage issues on existing trails and recommend improvements. | 2018 |
| Public Participation | Allow community participation in bi-annual Hazardous Waste Collec | Department of Public Works, Board of Health | Allow bi-annual participation in a household hazardous waste event every other year. | 2018 |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

### MCM 3: Illicit Discharge Detection and Elimination (IDDE)

| **BMP Categorization** (enter your own text to override the drop down menu) | **BMP Description** | **Responsible Department/Parties** (enter your own text to override the drop down menu) | **Measurable Goal** (all text can be overwritten) | **Beginning Year of BMP Imple-mentation** |
|---|---|---|---|---|
| SSO inventory | Develop SSO inventory in accordance of permit conditions | Department of Public Works, Planning Board, Board of Health | Complete within 1 year of effective date of permit | 2018 |
| Storm sewer system map | Create map and update during IDDE program completion | Department of Public Works, Planning Board | Update map within 2 years of effective date of permit and complete full system map 10 years after effective date of permit | 2018 |
| Written IDDE program | Create written IDDE program | Department of Public Works, Planning Board | Complete within 1 year of the effective date of permit and update as required | 2018 |
| Implement IDDE program | Implement catchment investigations according to program and permit conditions | Department of Public Works, Board of Health | Complete 10 years after effective date of permit | 2020 |
| Employee training | Train employees on IDDE implementation | Department of Public Works, Planning Board, Board of Health | Train annually | 2018 |
| Conduct dry weather screening | Conduct in accordance with outfall screening procedure and permit conditions | Department of Public Works | Complete 3 years after effective date of permit | 2019 |
| Conduct wet weather screening | Conduct in accordance with outfall screening procedure | Department of Public Works | Complete 10 years after effective date of permit | 2028 |
| Ongoing screening | Conduct dry weather and wet weather screening (as necessary) | Department of Public Works | Complete ongoing outfall screening upon completion of IDDE program | 2024 |
| IDDE Ordinance/Bylaw | Enforce existing IDDE bylaw | Planning Board, Board of Health | Continue to enforce IDDE bylaw, adopted in 2007 | 2018 |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

### MCM 4: Construction Site Stormwater Runoff Control

| **BMP Categorization** (enter your own text to override the drop down menu or entered text) | **BMP Description** | **Responsible Department/Parties** (enter your own text to override the drop down menu) | **Measurable Goal** (all text can be overwritten) | **Beginning Year of BMP Imple-mentation** |
|---|---|---|---|---|
| Site inspection and enforcement of Erosion and Sediment Control (ESC) measures | Complete written procedures of site inspections and enforcement procedures | Planning Board, Conservation Commission, Building Department | Complete within 1 year of the effective date of permit | 2018 |
| Site plan review | Complete written procedures of site plan review and begin implementation | Planning Board, Conservation Commission, Building Department | Complete within 1 year of the effective date of permit | 2018 |
| Erosion and Sediment Control | Adoption of requirements for construction operators to implement a sediment and erosion control program | Planning Board, Conservation Commission, Building Department | Complete within 1 year of the effective date of permit | 2018 |
| Waste Control | Adoption of requirements to control wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes | Planning Board, Conservation Commission, Building Department | Complete within 1 year of the effective date of permit | 2018 |
| Construction Ordinance/ Bylaw | Enforce existing construction site stormwater runoff control bylaw and accompanying rules and regulations | Planning Board, Conservation Commission, Building Department | Continue to enforce bylaw, rules and regulations | 2018 |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary (continued)

MCM 5: Post-Construction Stormwater Management in New Development and Redevelopment

| **BMP Categorization** (enter your own text to override the drop down menu or entered text) | **BMP Description** | **Responsible Department/Parties** (enter your own text to override the drop down menu) | **Measurable Goal** (all text can be overwritten) | **Beginning Year of BMP Imple-mentation** |
|---|---|---|---|---|
| As-built plans for on-site stormwater control | The procedures to require submission of as-built drawings and ensure long term operation and maintenance will be a part of the SWMP | Planning Board, Conservation Commission, Building Department | Require submission of as-built plans for completed projects | 2018 |
| Target properties to reduce impervious areas | Identify at least 5 permittee-owned properties that could be modified or retrofitted with BMPs to reduce impervious areas and update annually | Planning Board, Conservation Commission | Complete 4 years after effective date of permit and report annually on retrofitted properties | 2020 |
| Allow green infrastructure | Develop a report assessing existing local regulations to determine the feasibility of making green infrastructure practices allowable when appropriate site conditions exist | Planning Board, Conservation Commission, Building Department, | Complete 4 years after effective date of permit and implement recommendations of report | 2020 |
| Street design and parking lot guidelines | Develop a report assessing requirements that affect the creation of impervious cover. The assessment will help determine if changes to design standards for streets and parking lots can be modified to support low impact design options. | Planning Board, Conservation Commission, Zoning Board | Complete 4 years after effective date of permit and implement recommendations of report | 2020 |

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| Ensure any stormwater controls or management practices for new development and redevelopment meet the retention or treatment requirements of the permit and all applicable requirements of the Massachusetts Stormwater Handbook | Adoption, amendment, or modification of a regulatory mechanism to meet permit requirements | Planning Board, Conservation Commission, Building Department | Complete 2 years after effective date of permit | 2019 |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

## MCM 6: Municipal Good Housekeeping and Pollution Prevention

| **BMP Categorization** (enter your own text to override the drop down menu or entered text) | **BMP Description** | **Responsible Department/Parties** (enter your own text to override the drop down menu) | **Measurable Goal** (all text can be overwritten) | **Beginning Year of BMP Imple-mentation** |
|---|---|---|---|---|
| O&M procedures | Create written O&M procedures including all requirements contained in 2.3.7.a.ii for parks and open spaces, buildings and facilities, and vehicles and equipment | Department of Public Works | Complete and implement 2 years after effective date of permit | 2019 |
| Inventory all permittee-owned parks and open spaces, buildings and facilities, and vehicles and equipment | Create inventory | Department of Public Works, Permanent Building Committee | Complete 2 years after effective date of permit and implement annually | 2019 |
| Infrastructure O&M | Establish and implement program for repair and rehabilitation of MS4 infrastructure | Department of Public Works | Complete 2 years after effective date of permit | 2019 |
| Stormwater Pollution Prevention Plan (SWPPP) | Create SWPPPs for maintenance garages, transfer stations, and other waste-handling facilities | Department of Public Works | Complete and implement 2 years after effective date of permit | 2019 |
| Catch basin cleaning | Establish schedule for catch basin cleaning such that each catch basin is no more than 50% full and clean catch basins on that schedule | Department of Public Works | Clean catch basins on established schedule and report number of catch basins cleaned and volume of material moved annually | 2018 |
| Street sweeping program | Sweep all streets and permitee-owned parking lots in accordance with permit conditions | Department of Public Works | Sweep all streets and permitee-owned parking lots once per year in the spring | 2018 |
| Road salt use optimization program | Establish and implement a program to minimize the use of road salt | Department of Public Works | Implement salt use optimization during deicing season | 2018 |

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|---|---|---|---|---|
| Inspections and maintenance of stormwater treatment structures | Establish and implement inspection and maintenance procedures and frequencies | Department of Public Works | Inspect and maintain treatment structures at least annually | 2018 |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

### Actions for Meeting Total Maximum Daily Load (TMDL) Requirements

Use the drop-down menus to select the applicable TMDL, action description to meet the TMDL requirements, and the responsible department/parties. If no options are applicable, or more than one, **enter your own text to override drop-down menus.**

| Applicable TMDL | Action Description | Responsible Department/Parties (enter your own text to override the drop down menu) |
|---|---|---|
| Assabet River (Phosphorus) | Adhere to requirements in part A.V of Appendix F | Department of Public Works, Conservation Commission, Planning Bo |
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# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

### Actions for Meeting Requirements Related to Water Quality Limited Waters

Use the drop-down menus to select the pollutant causing the water quality limitation and enter the waterbody ID(s) experiencing excursions above water quality standards for that pollutant. Choose the action description from the dropdown menu and indicate the responsible party. If no options are applicable, or more than one, **enter your own text to override drop-down menus.**

| Pollutant | Waterbody ID(s) | Action Description | Responsible Department/Parties (enter your own text to override the drop down menu) |
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Part IV: Notes and additional information

Use the space below to indicate the part(s) of 2.2.1and 2.2.2 that you have identified as not applicable to your MS4 because you do not discharge to the impaired water body or a tributary to an impaired water body due to nitrogen or phosphorus. Provide all supporting documentation below or attach additional documents if necessary.
Also, provide any additional information about your MS4 program below.

Because the Town of Boxborough's population relies entirely on septic systems for wastewater management, SSO considerations will not apply to the Town's program.

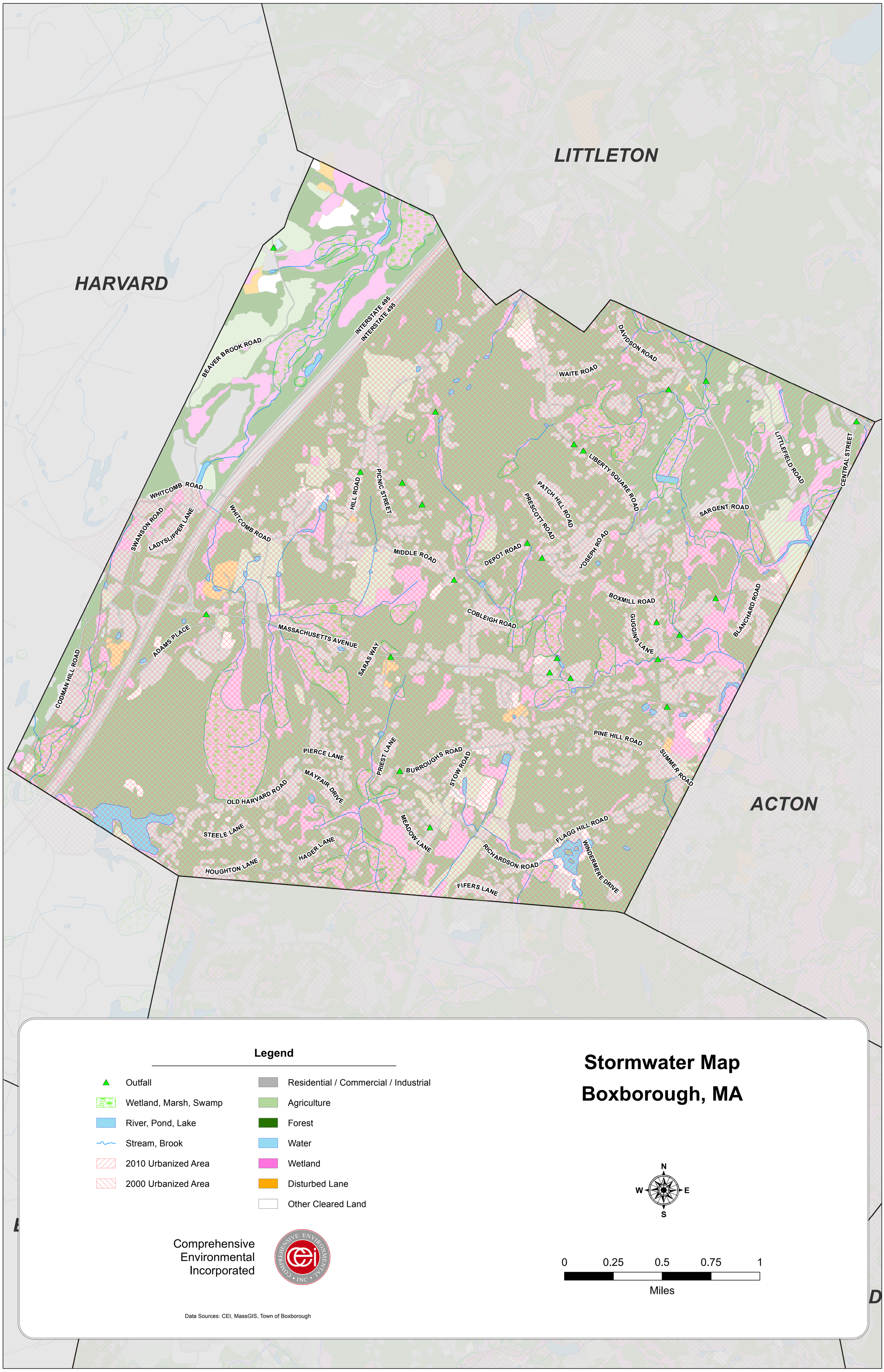
Part V: Certification

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

| | | | |
|---|---|---|---|
| Name: | Susan Bak | Title: | Chair, Board of Selectmen |
| Signature: | Susan M Bak | Date: | 9-10-2018 |

*[To be signed according to Appendix B, Subparagraph B.11, Standard Conditions]*

Note: When prompted during signing, save the document under a new file name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PRESCOTT ROAD
LITTLEFIELD ROAD
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DEPOT ROAD
BOXMILL ROAD
GUGGINS LANE
BLANCHARD ROAD
COBLEIGH ROAD
MASSACHUSETTS AVENUE
ADAMS PLACE
SARAS WAY
CODMAN HILL ROAD
PIERCE LANE
PRIEST LANE
BURROUGHS ROAD
STOW ROAD
PINE HILL ROAD
SUMMER ROAD
MAYFAIR DRIVE
OLD HARVARD ROAD
MEADOW LANE
STEELE LANE
HAGER LANE
HOUGHTON LANE
RICHARDSON ROAD
FLAGG HILL ROAD
WINDERMERE DRIVE
FIFERS LANE
Legend
Outfall
Wetland, Marsh, Swamp
River, Pond, Lake
Stream, Brook
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Agriculture
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Water
Wetland
Disturbed Lane
Other Cleared Land
Stormwater Map
Boxborough, MA
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Incorporated
Data Sources: CEI, MassGIS, Town of Boxborough

09.11.18

COMPREHENSIVE

ENVIRONMENTAL

INCORPORATED

- Engineering
- Design
- Construction
- Inspection

Responsive service, cost-effective solutions, technical excellence

- Drainage & Flooding
- Energy & Sustainability
- Hazardous Waste
- Permitting & NEPA
- Stormwater & LID
- Transportation
- Water & Wastewater
- Watershed Restoration

Wednesday, August 08, 2018

David Simmons
U.S. Fish and Wildlife Service
New England Field Office
70 Commercial Street, Suite 300
Concord, NH 03301

**RE: Informal Endangered Species Consultation – Boxborough, MA**

Dear Mr. Simmons,

As required by the federal 2016 National Pollutant Discharge and Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit (2016 MS4 Permit) issued by the Environmental Protection Agency (EPA), communities must meet certain requirements under the Clean Water Act and Endangered Species Act (ESA) to ensure that activities undertaken do not adversely affect endangered and threatened species or critical habitat. This permit requires that applicants applying for permit coverage must assess the impacts of their stormwater discharges and discharge-related activities on federally listed endangered and threatened species ("listed species") and designated critical habitat ("critical habitat") to ensure that these goals are met.

The 2016 MS4 Permit provides guidance on how to meet requirements of the ESA which in part requires communities with certain endangered species located within the "action area" (in this case, defined as the entirety of the community's regulated urbanized area) to contact the United States Fish and Wildlife Services (USFWS) for a formal or informal consultation to determine that permit activities will result in either a "no jeopardy" opinion or "not likely to adversely affect" listed species or critical habitat. These procedures are outlined in Appendix C, Criterion B of the 2016 MS4 Permit.

Comprehensive Environmental Inc. (CEI) is working with the Town of Boxborough, Massachusetts to complete work under the 2016 MS4 Permit, including preparation of a Notice of Intent (NOI) for submittal to EPA. During preparation of the NOI and using the IPaC system, CEI identified one or more species (listed below) identified under Criterion B, which requires contacting USFWS for a formal or informal consultation. Therefore, the purpose of this letter is to request an informal consultation from USFWS for endangered species listed in Boxborough for which we have made a "not likely to adversely affect" determination.

Activities covered under the 2016 MS4 Permit include stormwater discharge and related activities such as inspections, maintenance, and repairs of stormwater infrastructure. There are several reasons why activities proposed will not affect endangered or threatened species:

225 Cedar Hill Street, Marlborough, MA 01752 508-281-5160 Fax: 508-281-5136
21 Depot Street, Merrimack, NH 03054 603-424-8444 Fax: 603-424-8441
Gateway Crossings Suite 227 One Hartford Square East New Britain, CT 06052 860-620-3673
www.ceiengineers.com

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- Construction
- Inspection

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- Drainage & Flooding
- Energy & Sustainability
- Hazardous Waste
- Permitting & NEPA
- Stormwater & LID
- Transportation
- Water & Wastewater
- Watershed Restoration

1. No new construction is proposed under this permit, and any new construction may be required to undergo its own specific permitting process.
2. Any repair work covered by this permit will only affect previously disturbed areas where stormwater controls are already installed. Due to the nature of stormwater systems, this work falls primarily along roads within urbanized areas, where the risk of encountering and adversely impacting endangered species is limited.
3. Repair work that falls within the wetlands or 100-foot buffer zone is regulated by the Massachusetts Wetlands Protection Act, which triggers a project specific endangered species review, providing more specific protection for those species within the wetlands or buffer zone.
4. All stormwater discharges are pre-existing and Boxborough was previously permitted under the 2003 MS4 NOI.

The following provides a list of species that were identified using the IPaC system, CEI's determination of "no effect" or "not likely to adversely affect," and a brief rationale regarding the determination. CEI is only seeking concurrence from the USFWS for those species with the determination of "not likely to adversely affect."

<u>Terrestrial Animals</u>

Northern Long-Eared Bat, "no effect" – In warmer months these bats roost and forage in forested areas. As no trees are being removed under this permit, and stormwater discharges are unlikely to affect the forested areas that serve as its habitat, CEI has determined that activities covered by this permit will have "no effect" on the Northern Long-Eared Bat.

Red Knot, "no effect" – This species of shorebird is not present within the town, although stormwater discharges from the town flow down rivers which pass through areas in which they are listed. The primary threat to this species is the overharvesting of horseshoe crab eggs in the Delaware Bay, which border Delaware and New Jersey. Due to their terrestrial nature, stormwater discharges are unlikely to affect them. Because of this, CEI has determined that activities covered by this permit will have "no effect" on the Red Knot.

Roseate Tern, "no effect" – This species of shorebird is not present within the town, although stormwater discharges from the town flow down rivers which pass through areas in which they are listed. The primary threat to them is human disturbance and habitat destruction. Due to their terrestrial nature, stormwater discharges are unlikely to affect them. Because of this, CEI has determined that activities covered by this permit will have "no effect" on the Roseate Tern.

COMPREHENSIVE

ENVIRONMENTAL

INCORPORATED

- Engineering
- Design
- Construction
- Inspection

Responsive

service,

cost-effective

solutions,

technical

excellence

- Drainage & Flooding
- Energy & Sustainability
- Hazardous Waste
- Permitting & NEPA
- Stormwater & LID
- Transportation
- Water & Wastewater
- Watershed Restoration

Plants

Small Whorled Pogonia, "not likely to adversely affect" – Found on forested slopes with laterally draining water and along the slopes of vernal streams. The primary threats to this species are intentional destruction by humans, such as illegal collection, and habitat alteration. As even intermittent streams and their buffer zones are protected by the Massachusetts Wetlands Protection Act, any direct action which may impact this habitat will be subject to further regulatory review. While the species may also occur in upland areas, they are highly sensitive to changes in drainage. As stormwater systems primarily fall within roads and urbanized areas, repair work covered by this permit is unlikely to affect habitat that has not been previously impacted due to highly altered drainage from impervious areas. For these reasons, CEI has determined that activities covered by this permit are "not likely to adversely affect" the species.

CEI has determined that the stormwater discharges and discharge related activities regulated by this permit will have "no effect" on, or are "not likely to adversely affect" the above listed species within the action areas. We request a written concurrence from you regarding the species we have listed with the "not likely to adversely affect" determination. The Town of Boxborough agrees to re-initiate consultation with USFWS if structural Best Management Practices (BMPs) not identified on the NOI are proposed for installation or construction during the course of the permit term.

Please review the above list and inform us of your conclusions at your earliest convenience. If you have any questions or would like to discuss, please contact me at 800.725.2550 x381 or tpetersen@ceiengineers.com.

Sincerely,

COMPREHENSIVE ENVIRONMENTAL

Travis Petersen
Project Scientist

Attachments/Enclosures:
Official Species List – US Fish & Wildlife Service

# United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104
http://www.fws.gov/newengland


In Reply Refer To: July 27, 2018
Consultation Code: 05E1NE00-2018-SLI-2539
Event Code: 05E1NE00-2018-E-05955
Project Name: Boxboro MS4 Endangered Species Review

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (http://www.fws.gov/windenergy/) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm; http://www.towerkill.com; and http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

# Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**New England Ecological Services Field Office**
70 Commercial Street, Suite 300
Concord, NH 03301-5094
(603) 223-2541

# Project Summary

Consultation Code: 05E1NE00-2018-SLI-2539

Event Code: 05E1NE00-2018-E-05955

Project Name: Boxboro MS4 Endangered Species Review

Project Type: LAND - DRAINAGE

Project Description: Determination of impact of stormwater discharges and discharge related activities to threatened and endangered species per Appendix C of the MA MS4 General Permit. Stormwater discharge occurs from pre-existing outfalls within the regulated zone, as shown on the map.

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/42.6313844732382N71.38365809056398W

Counties: Essex, MA | Middlesex, MA | Worcester, MA

# Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Mammals

| NAME | STATUS |
|---|---|
| Northern Long-eared Bat *Myotis septentrionalis*<br>No critical habitat has been designated for this species.<br>Species profile: https://ecos.fws.gov/ecp/species/9045 | Threatened |

## Birds

| NAME | STATUS |
|---|---|
| Red Knot *Calidris canutus rufa*<br>No critical habitat has been designated for this species.<br>Species profile: https://ecos.fws.gov/ecp/species/1864 | Threatened |
| Roseate Tern *Sterna dougallii dougallii*<br>Population: northeast U.S. nesting pop.<br>No critical habitat has been designated for this species.<br>Species profile: https://ecos.fws.gov/ecp/species/2083 | Endangered |

## Flowering Plants

| NAME | STATUS |
| --- | --- |
| Small Whorled Pogonia *Isotria medeoloides*<br>No critical habitat has been designated for this species.<br>Species profile: https://ecos.fws.gov/ecp/species/1890 | Threatened |

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

# United States Department of the Interior

FISH AND WILDLIFE SERVICE

New England Field Office
70 Commercial St, Suite 300
Concord, NH 03301-5087
http://www.fws.gov/newengland


September 24, 2018

To whom it may concern:

The U.S. Fish and Wildlife Service (USFWS) reviewed the stormwater discharge activities associated with the 2016 National Pollutant Discharge and Elimination System (NPDES) Massachusetts (MA) Small Municipal Separate Storm Sewer System (MS4) general permit (MA MS4 General Permit) issued by the Environmental Protection Agency (EPA). We determined those activities may affect, but are not likely to adversely affect, certain species listed under the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) when specific conditions are met. When these conditions are met, we do not need to review individual projects. These comments are provided in accordance with section 7 of the ESA and complement existing 2016 MA MS4 General Permit Appendix C Guidance. We understand the applicant is acting as a non-Federal representative of the EPA for the purpose of consultation under section 7. **This letter provides additional guidance for meeting Criterion B and should be submitted as part of your application package to the EPA.**

If the USFWS Information for Planning and Consultation website (https://ecos.fws.gov/ipac/) indicates your MA MS4 General Permit project action area may contain one or more of the following federally listed endangered species: roseate tern (*Sterna dougallii*), northern red-bellied cooter (*Pseudemys rubriventris*), dwarf wedgemussel (*Alasmidonta heterodon*), rusty patched bumble bee (*Bombus affinis*), northeastern bulrush (*Scirpus ancistrochaetus*), or American chaffseed (*Schwalbea americana*); threatened species: piping plover (*Charadrius melodus*), bog turtle (*Glyptemys muhlenbergii*), Puritan tiger beetle (*Cicindela puritana*), northeastern beach tiger beetle (*Cicindela dorsalis*), or red knot (*Calidris canutus rufa*); or their federally designated critical habitat; and the specific conditions listed below are met, you may submit this letter to complete the **MA MS4 General Permit Appendix C: Step 4** in place of a concurrence letter for informal consultation as documentation of ESA eligibility for **USFWS Criterion B**.

In addition, this letter also satisfies the requirement in the **MA MS4 General Permit Appendix C: Step 2 (3)** to contact the USFWS and obtain a concurrence letter, if you have not yet done so. If your project action area includes one or more of the above-listed species *and* one or more of the

species listed under **Criterion C,**[1] you may still use this letter to certify under **Criterion B**. All existing guidance regarding requirements for certifying eligibility according to the USFWS Criterion A, B, or C for coverage by the 2016 MS4 Permit (see MA MS4 General Permit Appendix C – Endangered Species Guidance) remains unchanged.

We have determined that proposed stormwater discharge activities covered under the 2016 MS4 Permit *may affect, but are not likely to adversely affect*, the above-listed species and the species' critical habitat when the following are true:

1. all stormwater discharges are pre-existing or previously permitted by EPA;
2. any planned operations and maintenance work covered by this permit will only affect previously disturbed areas where stormwater controls are already installed. In these situations the chance of encountering any of the subject species is discountable;
3. the project implements EPA MS4 Best Management Practices (BMPs) and meets Clean Water Act and Massachusetts Water Quality Standards. Although permitted discharges may reach the environment used by these species, BMPs reduce pollutants to the extent that discharges are not known to have measurable impacts on these species or their habitat;
4. no new construction or structural BMPs are proposed under this permit at this time; and
5. you agree that if, during the course of the permit term, you plan to install a structural BMP not identified in the Notice of Intent (NOI), you will re-initiate consultation with the USFWS as necessary (see **MA MS4 General Permit Appendix C: Step 2 (5)**).

If the above criteria are met, further consultation with the USFWS under section 7 of the ESA is not required at this time; however, if the proposed action changes in any way such that it may affect a listed species in a manner not previously analyzed or if new information reveals the presence of additional listed species that may be affected by the project, the applicant or the EPA should contact us immediately and suspend activities that may affect those species until the appropriate level of consultation is completed with our office. Thank you for your cooperation, and please contact David Simmons of this office at (603) 227-6425 if you have questions or need further assistance.

Sincerely yours,

Thomas R Chapman
Supervisor
New England Field Office

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[1] Criterion C includes guidance for project action areas that may contain species for which EPA has already made a determination. These species include the northern long-eared bat (*Myotis septentrionalis*), sandplain gerardia (*Agalinis acuta*), small whorled pogonia (*Isotria medeoloides*), and/or American burying beetle (*Nicrophorus americanus*) (MA MS4 General Permit Appendix C: Step 3 – Determine if You Can Meet Eligibility USFWS Criterion C).