

Part I: General Conditions

General Information

Name of Municipality or Organization: State:

EPA NPDES Permit Number (if applicable):

Primary MS4 Program Manager Contact Information

Name: Title:

Street Address Line 1:

Street Address Line 2:

City: State: Zip Code:

Email: Phone Number:

Fax Number:

Other Information

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

Eligibility Determination

Endangered Species Act (ESA) Determination Complete? Eligibility Criteria (check all that apply): ☐ A ☒ B ☐ C

National Historic Preservation Act (NHPA) Determination Complete? 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? If 100% of 2003 requirements not met, enter an estimated date of completion (MM/DD/YY):

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? <i>(Part II, III, IV or V, Subpart B.3.(b.) of 2003 permit)</i>	Yes	Effective Date or Estimated Date of Adoption (MM/DD/YY): 03/21/17
Construction/Erosion and Sediment Control (ESC) Authority Adopted? <i>(Part II,III,IV or V, Subpart B.4.(a.) of 2003 permit)</i>	Yes	Effective Date or Estimated Date of Adoption (MM/DD/YY): 06/12/18
Post- Construction Stormwater Management Adopted? <i>(Part II, III, IV or V, Subpart B.5.(a.) of 2003 permit)</i>	Yes	Effective Date or Estimated Date of Adoption (MM/DD/YY): 06/12/18

Part II: Summary of Receiving Waters

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

[illegible]

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
Noquochoke Lake (MA95113)	5	☐	☐	☐	☐	☐	☐	☒	☐	☒	Non-Native Aquatic Plants, Aquatic Plants (Macrophytes), Mercury in Fish Tissue, PCB in Fish Tissue
Wetland/Tributary to Noquochoke Lake - North Basin (MA95171)	5	☐	☐	☐	☐	☐	☐	☒	☐	☐	Non-Native Aquatic Plants, Aquatic Plants (Macrophytes), Mercury in Fish Tissue, PCB in Fish Tissue
Wetland/Tributary to Noquochoke Lake - South Basin (MA95170)	5	☐	☐	☐	☐	☐	☐	☒	☐	☐	Non-Native Aquatic Plants, Aquatic Plants (Macrophytes), Mercury in Fish Tissue, PCB in Fish Tissue
Paskamanset River (MA95-11)	3	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Wetland/Tributary to Paskamanset River (MA95-11)	55	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Shingle Island River (MA95-12)	1	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Wetland/Tributary to Shingle Island River (MA95-12)	2	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Wetland/Tributary to Turner Pond (MA95151)	1	☐	☐	☐	☐	☐	☐	☐	☐	☐	Mercury in Fish Tissue
Wetland/Tributary to East Branch Westport River (MA95-40)	1	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Wetland/Tributary to Unnamed Tributary (MA95-57)	1	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Interconnection with Westport	1	☐	☐	☐	☐	☐	☐	☐	☐	☐	
Outside Receiving	165	☐	☐	☐	☐	☐	☐	☐	☐	☐	
		☐	☐	☐	☐	☐	☐	☐	☐	☐	
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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 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 require a target audience).

MCM 1: Public Education and Outreach

BMP ID	BMP Media/Category	BMP Description	Targeted Audience	Responsible Department/ Parties	Measurable Goal	Beginning Year of BMP Implementation
1A	Multi-media methods (including web, DCTV, print materials)	Education and outreach on stormwater management topics of significance in Dartmouth (including waterfowl and pet waste management, proper use of pesticides and fertilizers). Educational topics will include but are not limited to those in Part 2.3.2.d.i	Residents	DPW, Board of Health	Distribute a minimum of two (2) educational messages spaced at least a year apart	2018 (PY1)
1B	Multi-media methods (including web and print materials)	Education and outreach on stormwater management topics of significance in Dartmouth (including proper lawn maintenance, parking lot sweeping). Educational topics will include but are not limited to those in Part 2.3.2.d.ii	Businesses, Institutions, and Commercial Facilities	DPW, Board of Health	Distribute a minimum of two (2) educational messages spaced at least a year apart	2019 (PY2)

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BMP ID	BMP Media/Category	BMP Description	Targeted Audience	Responsible Department/ Parties	Measurable Goal	Beginning Year of BMP Implementation
1C	Multi-media methods (including web and print materials)	Education and outreach on stormwater management topics of significance in Dartmouth (including proper erosion and sedimentation control, permit requirements, and design standards). Educational topics will include but are not limited to those in Part 2.3.2.d.iii	Developers (Construction)	DPW, Board of Health, Planning, ZBA	Distribute a minimum of two (2) educational messages spaced at least a year apart	2018 (PY1)
1D	Multi-media methods (including web and print materials)	Education and outreach on stormwater management topics of significance in Dartmouth (including pollution prevention, illicit discharges, information about the Multi-Sector General Permit). Educational topics will include but are not limited to those in Part 2.3.2.d.iv	Industrial Facilities	DPW, Board of Health	Distribute a minimum of two (2) educational messages spaced at least a year apart	2019 (PY2)

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Part III: Stormwater Management Program Summary

MCM 2: Public Involvement and Participation

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
2A	Public Review	SWMP review (Plan and reports available on web and at public meetings)	DPW, Conservation	Annually provide the public with an opportunity to participate in the review and implementation of the SWMP	2018 (PY1)
2B	Public Participation	Provide opportunities for public involvement and participation in Dartmouth' stormwater program (including clean up events and support work of various environmental protection organizations in Dartmouth). Specific activities, schedule, and lead departments are included in the SWMP.	DPW, Conservation	Ongoing compliance	2018 (PY1)
2C	Public Review	Continue Stormwater Working Group (DPW, Conservation, Building, Planning, Board of Health)	DPW	At a minimum, stormwater working group will meet annually.	2018 (PY1)

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Part III: Stormwater Management Program Summary

MCM 3: Illicit Discharge Detection and Elimination (IDDE)

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
3A	IDDE Regulations	Complete. Continue to enforce and update if necessary.	Board of Health	Track illicit discharges identified and removed.	2018 (PY1)
3B	SSO Inventory	Develop SSO inventory in accordance with permit conditions	DPW, Board of Health	Complete within one (1) year of effective date of permit. Track # of SSOs identified and removed annually	2018 (PY1)
3C	Storm sewer system map	Complete. Improve map during IDDE Program implementation	DPW, Conservation	Update map within two (2) years of effective date of permit and complete full system map 10 years after effective date of permit	2018 (PY1)
3D	Written IDDE program	Create written IDDE Plan and update as necessary	Board of Health, DPW	Complete within one (1) year of the effective date of permit and update as required	2018 (PY1)
3E-1	Assessment and Priority Ranking of Outfalls & Interconnections	Outfall/ Interconnection Inventory and Initial Ranking as part of BMP 3D	DPW	Complete within one (1) year of the effective date of permit and update as necessary	2018 (PY1)

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

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
3E-2	Assessment and Priority Ranking of Outfalls & Interconnections	Dry Weather Outfall Screening & Sampling in accordance with IDDE Plan and permit conditions	DPW	Complete three (3) years after effective date of permit. Track # of illicit discharges identified & volume removed. Summarize screening/sampling results.	2018 (PY1)
3E-3	Assessment and Priority Ranking of Outfalls & Interconnections	Catchment Investigations according to IDDE Program and permit conditions	DPW	Complete 10 years after effective date of permit. Track # and percentage of MS4 catchments evaluated. Track # of illicit discharges identified & volume removed. Summarize screening/sampling results.	2019 (PY2)
3F	Employee Training	Train employees on IDDE implementation	DPW	Train annually. Track employees trained, training topic, date/time, and materials presented.	2018 (PY1)

Notice of Intent (NOI) for coverage under Small MS4 General Permit**Part III: Stormwater Management Program Summary****MCM 4: Construction Site Stormwater Runoff Control**

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
4A	Construction Bylaw and Regulations	Complete. Modify local bylaw and regulations, if necessary, to contain new MS4 provisions per section 2.3.5.	DPW	Review current procedures and modify if necessary within one (1) year of permit effective date	2018 (PY1)
4B	Construction Policy and Procedures	Develop and implement written procedures for site inspections and enforcement procedures per section 2.3.5.	DPW	Review current procedures and modify if necessary within one (1) year of permit effective date	2018 (PY1)

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

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Part III: Stormwater Management Program Summary

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

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
5A	Post-Construction Bylaw and Regulations	Complete. Modify local bylaw and regulations to contain new MS4 provisions per section 2.3.6.a.	DPW	Modify existing bylaw and/or regulations if necessary within two (2) years of permit effective date	2019 (PY2)
5B	Assess street 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.	DPW, Planning, Conservation	Complete report no later than four (4) years of permit effective date	2020 (PY3)
5C	Assess allowing green infrastructure	Develop a report assessing existing local regulations to determine the feasibility of making green infrastructure practices allowable when appropriate site conditions exist	DPW, Planning, Conservation	Complete report no later than four (4) years of permit effective date	2020 (PY3)

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

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
5D	Retrofit Feasibility Assessment	Conduct detailed inventory of Town-owned properties and rank for retrofit potential	DPW, Planning	Complete report no later than four (4) years of permit effective date. Beginning in year 5 keep running list of at least five (5) retrofit sites	2020 (PY3)

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

Part III: Stormwater Management Program Summary

MCM 6: Municipal Good Housekeeping and Pollution Prevention

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
6A	Operation & Maintenance Program	Inventory and create O&M procedures for all permittee-owned parks and open spaces, buildings and facilities (including their storm drains), and vehicles and equipment	DPW / Parks Dept. / Schools Dept	Complete two (2) years after permit effective date, implement in following years	2019 (PY2)
6B	Operation & Maintenance Program	Establish and implement program for repair and rehabilitation of MS4 infrastructure	DPW	Complete two (2) years after permit effective date, implement in following years	2019 (PY2)
6C	Stormwater Pollution Prevention Plans (SWPPP)	Develop and implement SWPPPs for the Highway facility	DPW	Complete SWPPPs within two (2) years of permit effective date, implement in following years	2019 (PY2)
6D-1	Operation & Maintenance Program	Implement procedures to optimize catch basin cleaning developed under BMP 6B	DPW	Track frequency and material quantity of catch basin cleaning in town. In first Annual Report and in SWMP, document plan for optimizing catch basin cleaning.	2018 (PY1)

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

BMP ID	BMP Category	BMP Description	Responsible Department/Parties	Measurable Goal	Beginning Year of BMP Implementation
6D-2	Operation & Maintenance Program	Implement procedures for street and parking lot sweeping developed under BMP 6B	DPW	Annually track number of miles cleaned or the volume or mass of material removed.	2018 (PY1)
6D-3	Operation & Maintenance Program	Implement procedures for use and storage of deicing materials developed under BMP 6B	DPW	Implement program for winter road maintenance throughout permit term.	2018 (PY1)
6D-4	Operation & Maintenance Program	Implement procedures to inspect and maintain Town-owned structural stormwater BMPs	DPW	Develop an inventory of Town-owned BMPs within two (2) years of permit effective date. Report on inspection and maintenance conducted annually.	2018 (PY1)

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.**

[illegible]

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.**

[illegible]

Part IV: Notes and additional information

Use the space below to indicate the part(s) of 2.2.1 and 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.

1. BMPs identified in the 2003 General Permit NOI have been modified or replaced over the permit term due to staff changes and Stormwater Program modifications. The intent of the 2003 BMPs are being met under the proposed 2016 General Permit BMPs included in the Stormwater Management Plan. The Plan will describe how the BMPs under the 2003 permit fit into the new program, particularly where BMPs and/or measurable goals that are outdated or no longer appropriate have been replaced or updated.

2. The National Endangered Species Eligibility Determination screening process has been completed and the Town of Dartmouth meets Criterion B. The Town's stormwater discharges and discharge related activities are not likely to adversely affect listed species or critical habitat. The Town has consulted with U.S. Fish and Wildlife Service (USFWS). See attached for the initial communications and letter from USFWS confirming that the Town of Dartmouth is eligible for Criterion B. The Town will continue communications as needed during the permit term. Additional information will be included in the Town's Stormwater Management Plan.

3. The National Historic Preservation Act Eligibility Determination screening process has been completed and the Town of Dartmouth meets Criterion A. The Town's stormwater discharges do not have the potential to cause effects on historic properties. The Town will consult with the State Historic Preservation Officer as needed during the permit term.

4. The outfalls and associated receiving waters in Part II are based on mapping as of September 2018 and are subject to change during implementation of the Stormwater Management Program as newly constructed outfalls are added to the map and inventory; locations are adjusted; or outfalls are removed if they are determined to be non-municipally owned/operated or reclassified as a BMP inlet, culvert, or other structure. Changes to the outfall inventory and mapping will be formalized in Annual Reports to EPA.

Detailed explanations of the above notes will be included in the Town's Stormwater Management Plan.

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

Page 19 of 19

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.

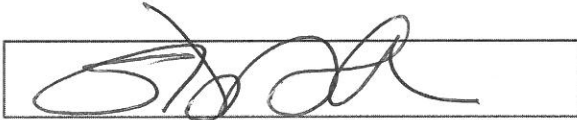
Name:

Shawn D. McDonald

Title:

Select Board Chairman

Signature:

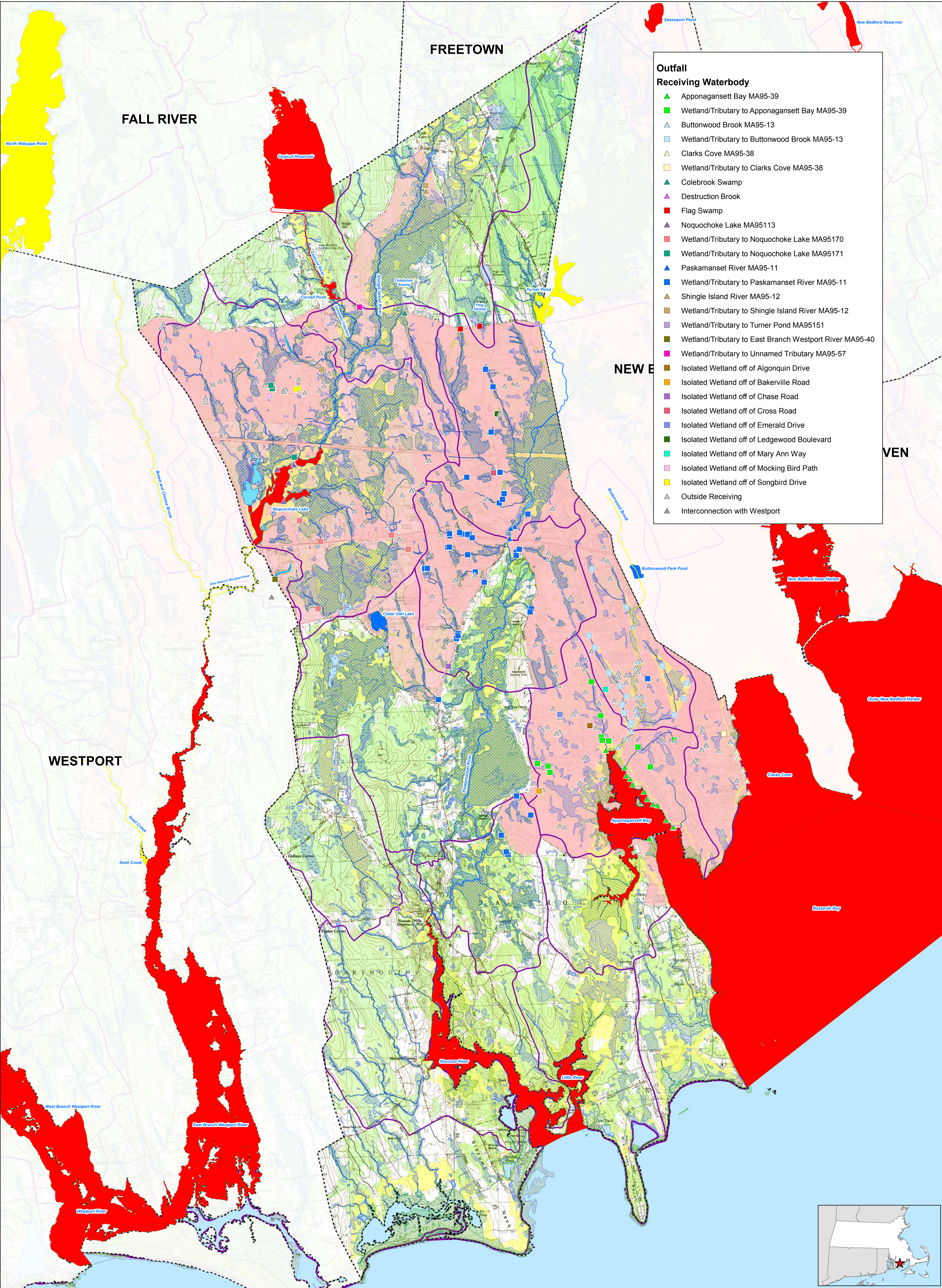


Date:

9-24-2018

[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



Legend

2014 Integrated List Data - 305(b)/303(d) Category

- 2 - Attaining some uses; other uses not assessed
- 3 - No uses assessed
- 4A - Impaired - TMDL is completed
- 4C - Impairment not caused by a pollutant
- 5 - Impaired - TMDL required

Water Body Segments - Lakes, Estuaries Category

- 2 - Attaining some uses; other uses not assessed
- 3 - No uses assessed
- 4A - Impaired - TMDL is completed
- 4C - Impairment not caused by a pollutant
- 5 - Impaired - TMDL required

Urban Area (2000 and 2010 Census)

Town Boundary

Major Drainage Basin

Subbasin

Flood Zone Designations

- 100 Year Flood Zone

MassDEP Waterbodies

- Public Surface Water Supply (PSWS)
- Water Bodies
- MassDEP Inland Wetlands
- MassDEP Coastal Wetlands
- Stream/Intermittent Stream

National Wetlands Inventory Wetland Areas

- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine
- NWI Rivers and Streams

1:33,000

0 2,750 5,500 Feet

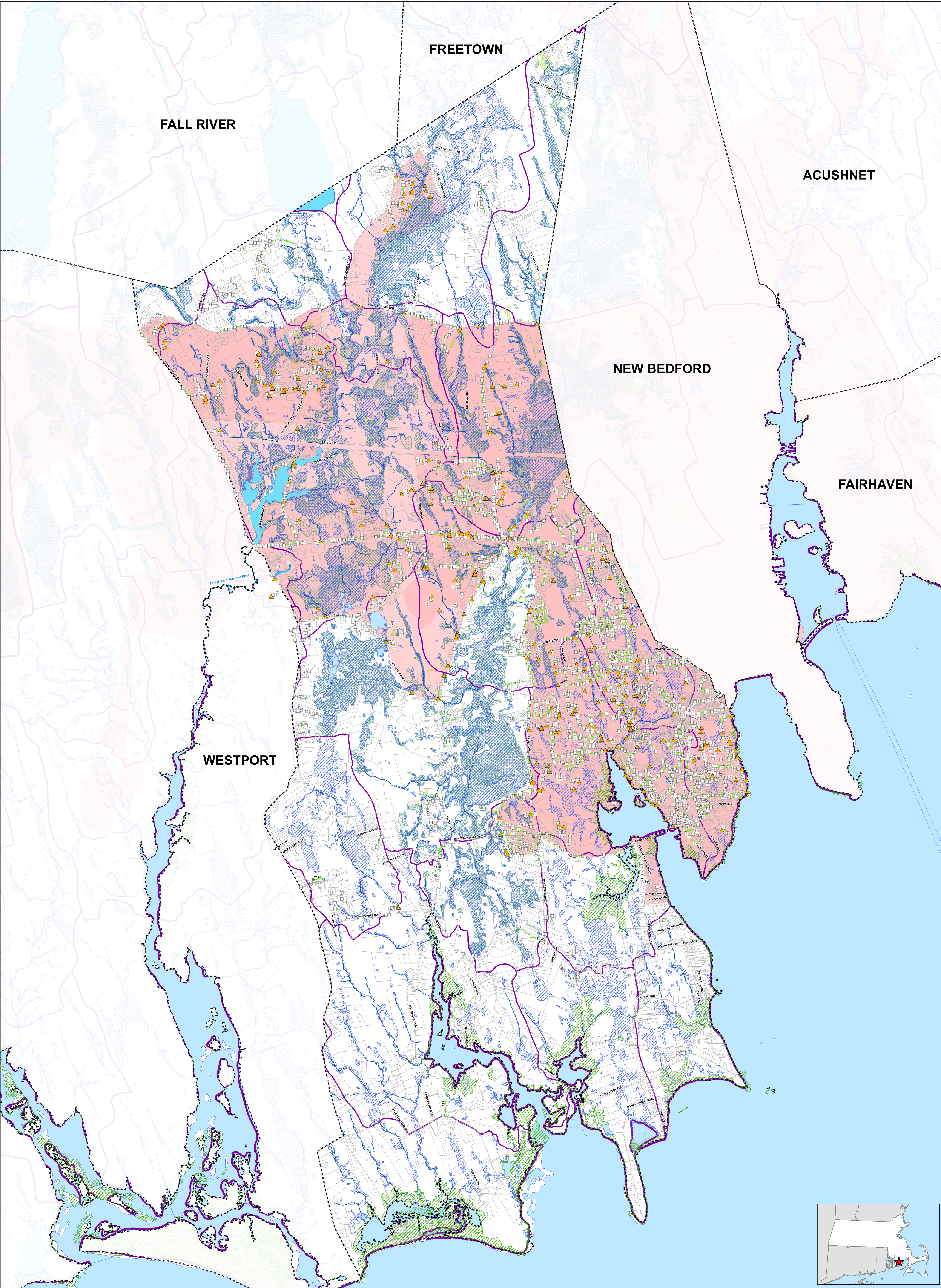
OUTFALLS AND RECEIVING WATERBODIES

Notice of Intent

Dartmouth, Massachusetts

September 2018

1. Based on USGS Topo Map (1985, 1979, 1977)
2. MassGIS: MassDEP Hydrography (1:25,000) (2017), MassDEP Wetlands (2005), MassGIS: 2014 Integrated List Data (2016), Major Drainage Basins (2003), Subbasins (2007), Community Boundary (2017), National Wetlands Inventory (2007), FEMA National Flood Hazard (2017).
3. Town of Dartmouth: Outfalls



Legend

- ▲ Outfall
- ▤ Catch Basin
- ⊙ Drain Manhole
- Culverts
- Open Channel
- Drain Line
- Detention Basin
- - - Town Boundary
- ▤ Parcel
- Urban Area (2000 and 2010 Census)
- ▤ Major Drainage Basin
- ▤ Subbasin

MassDEP Waterbodies

- Public Surface Water Supply (PSWS)
- Water Bodies
- MassDEP Inland Wetlands
- MassDEP Coastal Wetlands
- Stream/Intermittent Stream

National Wetlands Inventory Wetland Areas

- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine
- NWI Rivers and Streams

1:33,000

0 2,750 5,500
Feet



1. MassGIS: MassDEP Hydrography (1:25,000) (2017), MassDEP Wetlands (2005), Major Drainage Basins (2003), Subbasins (2007), Community Boundary (2017), National Wetlands Inventory (2007), MassDOT Major Roads (2014)
2. Town of Dartmouth: Stormwater Infrastructure

STORMWATER INFRASTRUCTURE

Notice of Intent

Dartmouth, Massachusetts

September 2018

Tighe&Bond
Engineers | Environmental Specialists

Cassandra LaRochelle

From: Cassandra LaRochelle
Sent: Wednesday, September 19, 2018 4:51 PM
To: 'Maria_Tur@fws.gov'
Cc: 'dhickox@town.dartmouth.ma.us'; Emily J. Scerbo
Subject: Dartmouth Endangered Species Eligibility Review
Attachments: Dartmouth IPaC.pdf; Urbanized Area.pdf; Long-eared Bat Roost Map.pdf; Roseate Tern Fact Sheet.pdf

Good afternoon Maria,

Tighe & Bond is working with the Town of Dartmouth on their MS4 notice of intent, due to EPA by October 1st. We were given your contact information by the Neponset Stormwater Partnership. We would like to initiate correspondence for the US Fish & Wildlife Endangered Species review required under Part 1.9.1 of the MS4 General Permit. Please let me know if there is a more appropriate contact for this request.

We ran the IPaC report for Dartmouth's MS4 area (see attached regulated area map and IPaC report) and found the following listed species:

- Northern Long-eared Bat
- Roseate Tern

The IPaC report states that there are no critical habitats within Dartmouth. Additionally, a review of available literature for the Northern Long-eared Bat indicates that there are no roost locations within Dartmouth (see attached map). Figure 1 in the NHESP fact sheet for the Roseate Tern indicates that there are no present or historic nesting colonies within Dartmouth (see attached fact sheet). Therefore, it is our understanding that the Town's stormwater activities are not likely to affect these listed species.

On behalf of the Town of Dartmouth, we would like to request **concurrence from USFWS that the Town's stormwater discharges and discharge-related activities are not likely to adversely affect listed species or critical habitat.**

Please let me know if you have any questions or require any additional information.

Thank you,
Cassandra

Cassandra LaRochelle, P.E. | Project Engineer

Tighe & Bond | 446 Main Street | Worcester, MA 01608 | 508.471.9644

www.tighebond.com | Follow us on: [Twitter](#) [Facebook](#) [LinkedIn](#)

Tighe&Bond



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:
Consultation Code: 05E1NE00-2018-SLI-3138
Event Code: 05E1NE00-2018-E-07373
Project Name: Dartmouth MS4

September 19, 2018

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-3138

Event Code: 05E1NE00-2018-E-07373

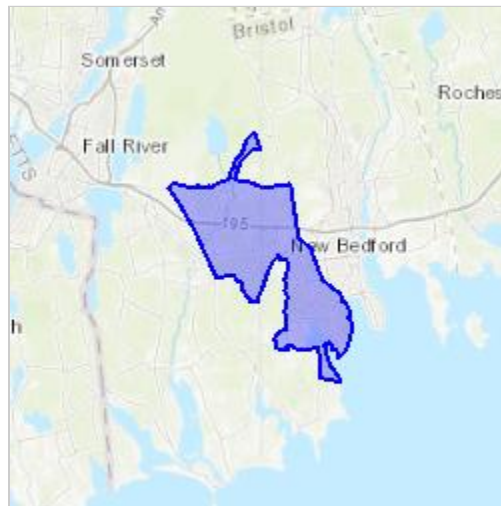
Project Name: Dartmouth MS4

Project Type: Regulation Promulgation

Project Description: Eligibility review as part of the development of the Town of Dartmouth's MS4 Notice of Intent.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.63655508833876N71.01577373480735W>



Counties: Bristol, MA

Endangered Species Act Species

There is a total of 2 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 Fisheries¹, 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.

-
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

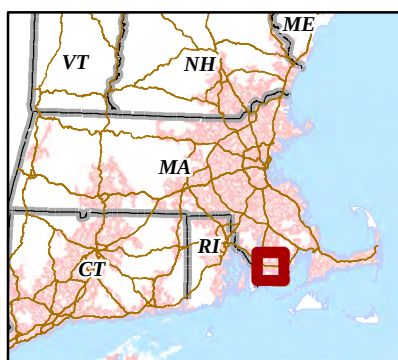
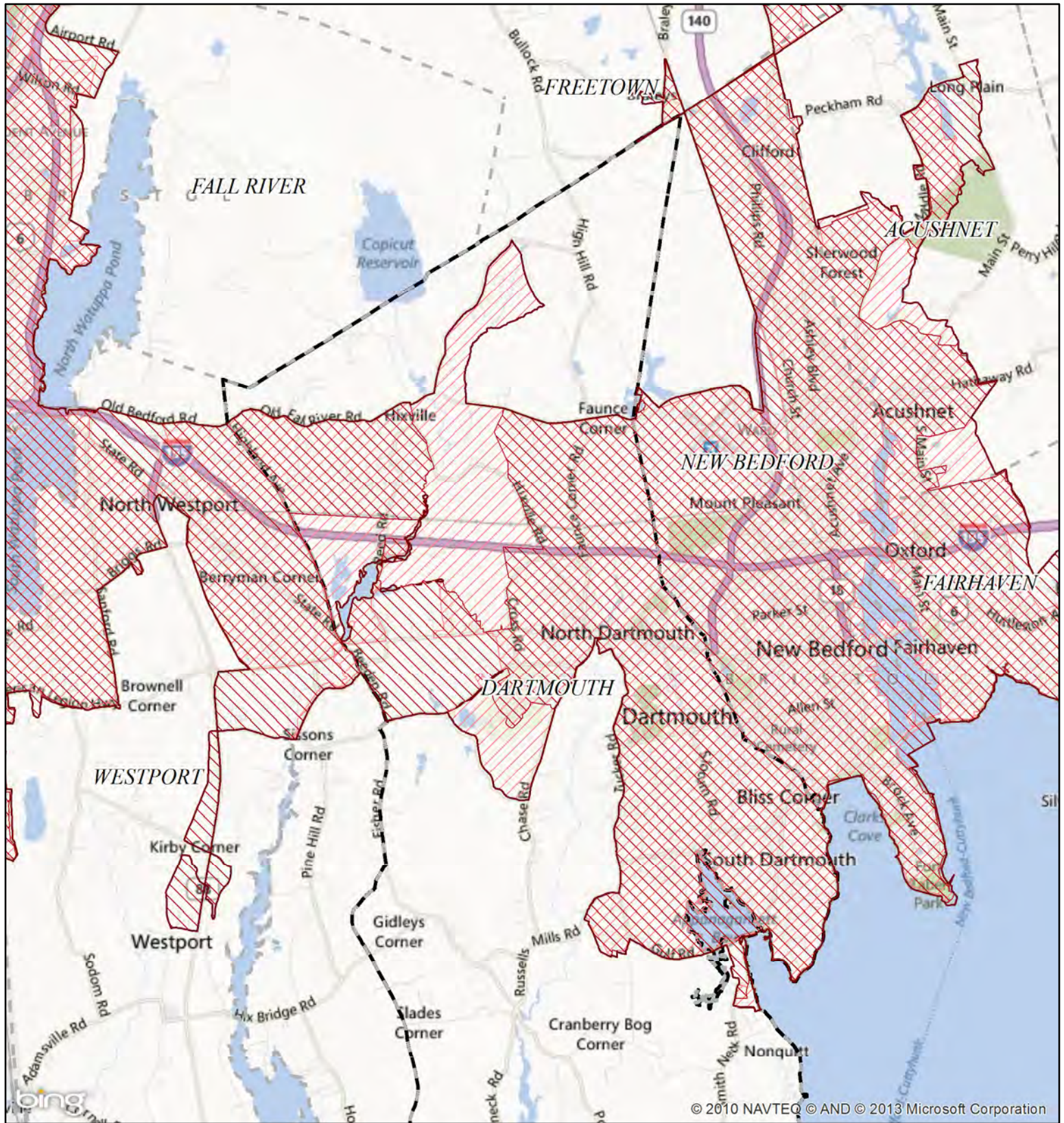
NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: northeast U.S. nesting pop. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Critical habitats

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



NPDES Phase II Stormwater Program Automatically Designated MS4 Areas

Dartmouth MA

Regulated Area:

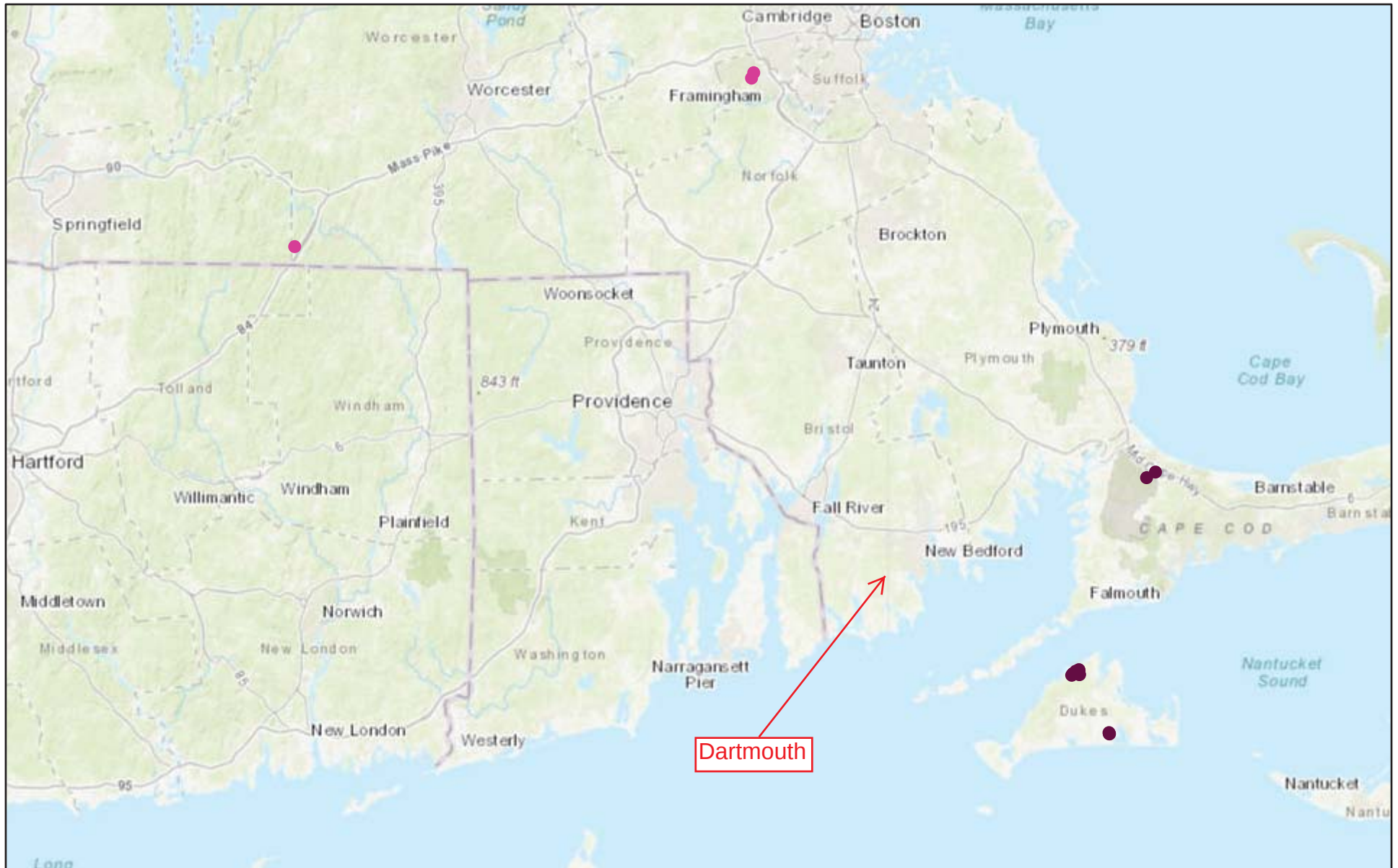


Town Population: 34038
Regulated Population: 27530
(Populations estimated from 2010 Census)



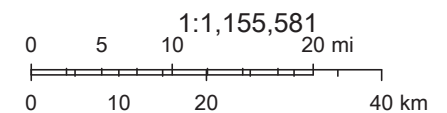
Urbanized Areas, Town Boundaries:
US Census (2000, 2010)
Base map © 2013 Microsoft Corporation
and its data suppliers

Northern Long-eared Bat Locations



August 24, 2018

- Statewide NLEB Symbology
- Maternity Roost Tree
 - Hibernaculum
 - MA Northern Long-eared Bat Maternity Roost Trees (with 150ft buffer)
 - MA Northern Long-eared Bat Winter Hibernacula (with ¼ mile buffer)



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri



Natural Heritage & Endangered Species Program

www.mass.gov/nhesp

Massachusetts Division of Fisheries & Wildlife

Roseate Tern *Sterna dougallii*

State Status: **Endangered**
Federal Status: **Endangered**

The elegant Roseate Tern, with its long, white tail-streamers and rapid flight, alights on Massachusetts beaches in the spring. It tunnels under vegetation to nest within colonies of its more rough-and-tumble relative, the Common Tern, from which it derives protection from intruders. The Roseate Tern is a plunge-diver that feeds mainly on the sand lance, and availability of this fish may influence the timing of breeding. Depredations of plume hunters in the 19th century and displacement from breeding sites by gulls and increased predation in the 20th century contributed to a decline in numbers and loss of major breeding sites in the northeast. In a sense, the Roseate Tern is emblematic of the Commonwealth, because for the past century, about half the northeastern population has nested in Buzzards Bay and outer Cape Cod. The Roseate is now considered an Endangered Species. The population, which increased from the 1980s through 2000, is now in decline. Several projects are in progress to restore the Roseate to historical breeding locations in Massachusetts.

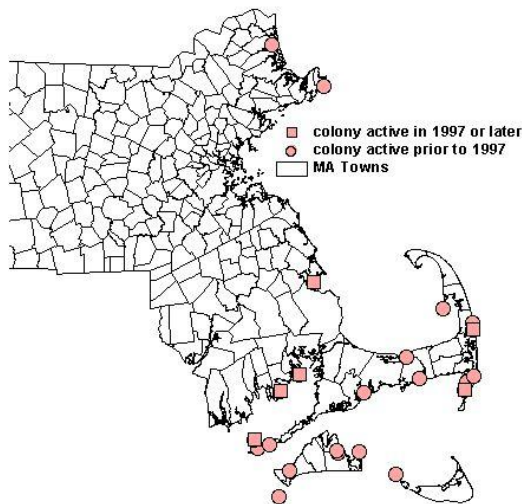


Figure 1. Distribution of present and historic Roseate Tern nesting colonies in Massachusetts.



Photo by B. Byrne, MDFW

DESCRIPTION: The Roseate Tern measures 33-41 cm in length and weighs 95-130 g. Breeding adults have pale gray upperparts, white underparts (flushed with pale pink early in the breeding season), a black cap, orange legs and feet, and a black bill (which becomes more red at the base as the season progresses). The tail is mostly white, and is deeply forked with two very long outer streamers, which extend well past the tips of the folded wings. In non-breeding adults, the forehead becomes white and the crown becomes white marked with black, merging with a black patch that extends from the eyes back to the nape. The down of hatchlings is distinctive: it is grizzled buff/black or gray/black, and is spiky-looking because the down filaments are gathered at the tips. Juveniles are buff or gray above, barred with black chevrons, and have a mottled forehead and crown, black eye-to-nape patch, and black bill and legs. The Roseate's vocal array includes a high-pitched *chi-vik* advertising call, and musical *kliu* and raspy *aaach* alarm calls, the latter sometimes likened to the sound of tearing cloth.

SIMILAR SPECIES IN MASSACHUSETTS: The Common Tern (*Sterna hirundo*) is similar in size, but has a black-tipped orange bill, darker gray upperparts,

A Species of Greatest Conservation Need in the Massachusetts State Wildlife Action Plan

Massachusetts Division of Fisheries & Wildlife

1 Rabbit Hill Rd., Westborough, MA; tel: 508-389-6300; fax: 508-389-7890; www.mass.gov/dfw

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pale gray underparts, a shorter tail that does not extend beyond the folded wingtips, and an “irritable” voice. The Arctic Tern (*Sterna paradisaea*) is also similar in size, but has a shorter, blood-red bill, very short red legs, gray underparts with contrasting white cheeks, a shorter tail (which still extends past the folded wingtips), and a very different, high-pitched voice. The Least Tern (*Sternula antillarum*) is markedly smaller, with a yellow-orange bill, a white forehead, and a short tail.

DISTRIBUTION AND MIGRATION: The Roseate Tern has a scattered breeding distribution primarily in the tropical and sub-tropical Atlantic, Indian, and Pacific Oceans. In North America, it breeds in two discrete populations: from Nova Scotia south to New York and in the Caribbean. The northeast population, at about 40-45° N, is among the most northernmost nesting groups of this mostly tropical species. Roseates arrive in Massachusetts from late-April to mid-May to nest at just a handful of coastal locations (Fig. 1). The largest colonies occur in Buzzards Bay (see Status, below). Massachusetts birds depart from breeding colonies in late-July and August and concentrate in “staging areas” around Cape Cod and the Islands, before departure for wintering grounds in September. Roseates appear to feed offshore and return to the staging areas to rest and roost. Most have departed staging areas and have begun migrating southward by mid- to late-September. The Roseate’s wintering range remains poorly known, but increasing evidence indicates that Northeastern birds winter along the north and east coasts of South America southward along the coast of Brazil to approximately 18° S.

BREEDING AND FORAGING HABITAT: In Massachusetts, the Roseate Tern generally nests on sandy, gravelly, or rocky islands and, less commonly, in small numbers at the ends of long barrier beaches. Compared to the Common Tern, it selects nest sites with denser vegetation, such as seaside goldenrod and beach pea, which is also used for cover by chicks. Large boulders are used for cover at other locations in the northeast. It feeds in highly specialized situations over shallow sandbars, shoals, inlets or schools of predatory fish, which drive smaller prey to the surface. The Roseate is known to forage up to 30 km from the breeding colony.

FOOD HABITS: The Roseate Tern feeds almost exclusively on small fish; occasionally it includes

crustaceans in its diet. It is fairly specialized, consuming primarily sand lance (about 70% of diet in Massachusetts). Other prey species of importance in Massachusetts are herrings, bluefish, mackerel, silversides, and anchovies. In the northeast, it often forages with Common Terns. The Roseate captures food mainly by plunge-diving (diving from heights of 1-12 m and often submerging to ≥ 50 cm), but also by surface-dipping and contact-dipping. Some individuals specialize in stealing fish from Common Terns.

BREEDING:

Phenology. Roseates usually begin to arrive in Massachusetts in late-April or the first week of May. Egg dates are 12 May to 18 August, and laying usually begins about 8 days later than that of Common Terns in the host colony. Incubation lasts about 3 weeks, and the nestling period about 4 weeks.

Colony. The Roseate Tern is gregarious. In the northeast it nests in colonies of a few to about 1,700 pairs, and the largest colony in Massachusetts numbers about 1,100 pairs (see Status, below). In this portion of its range, the Roseate invariably nests with the Common Tern, forming clusters or sub-colonies within larger Common Tern colonies. Pairs defend their nest site. (See also Predation, below.)

Pair-bond. Courtship involves both aerial and ground displays, including spectacular High Flights (in which ≥ 2 birds spiral up to 30-300 m above ground and then descend in a zig-zag glide), and Low Flights (in which a fish-carrying male is chased by up to 12 other birds). Males feed females before and during the egg-laying period. The Roseate Tern is socially monogamous, but extra-pair copulations occur. Both parents spend roughly equal amounts of time incubating, and incubation shifts last about 26 minutes. Males and females also contribute approximately equally to brooding and feeding chicks. The average length of pair bonds in Connecticut was 2.5 years. The sex ratio in Massachusetts (and probably other northeast colonies) is skewed towards females (1.27 females:1 male). This results in multi-female associations (≥ 2 females), and often ≥ 3 -egg clutches, at nests.

Nests. Nests (usually beneath vegetation or debris, or in special nest boxes) are depressions or “scrapes” in the substrate, to which nesting material may or may not be added throughout incubation. In the northeast, nests are usually 50-250 cm apart, depending on the distribution of vegetation and rocks.

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Eggs. Eggs are various shades of brown with dark spots and streaks. The second egg may be paler than the first. Eggs measure approximately 43 x 30 mm, and are subelliptical in shape. The eggs are difficult to distinguish from those of the Common Tern, but Roseate eggs are generally longer, more conical, less rounded, darker, and more uniformly and finely spotted. Clutch size is usually 1-2 eggs; older females generally lay 2 eggs (laid about 3 days apart), and younger females, 1 egg. Nests with ≥ 3 eggs are often attended by more than one female. Incubation, which begins after laying of the first egg, may be sporadic until the second egg is laid. The period between laying and hatching is about 23 days for both eggs.

Young. Chicks are semi-precocial. They are downy at hatching. Eyes open after a couple hours, and chicks are able to waddle and take food within hours after hatching. In 2-chick broods, there is often a substantial size difference between the young that persists throughout the growth period; this is because the first chick (A-chick) is usually 3 days older. Chicks are brooded/attended most of the day and night for the first few days of life. Parental attendance ceases after about a week, except for cold, rainy days. Parents carry prey to chicks in their bills one fish at a time. Feeding rates at sites in Massachusetts and Connecticut are about 1 fish/hour. At sheltered nests, undisturbed chicks may remain at the nest site until they are nearly fledged. Where there is more disturbance, chicks may move more than 60 m away to new hiding spots. In 2-chick broods, the younger chick (B-chick) is less likely to survive than the A-chick. Most losses of B-chicks appear to be due to starvation. The peak of fledging is at 27-30 days. Four to 10 days after fledging, young birds accompany parents to fishing grounds. They begin to catch fish after 3 weeks, but remain dependent on parents for food at least 6 weeks, or until migration in September. This notably long period of dependence reflects the highly specialized fishing techniques that the young must master. At Bird I., MA, family units depart the nesting colony 5-15 days post-fledging to congregate at staging locations. When two chicks are raised, the male leaves first with the older chick and the female leaves up to 7 days later with the younger chick. Nothing is known of family cohesion during migration.

PREDATION:

Predators. In North America, predators of Roseate Tern eggs, young, and adults include birds and mammals, snakes, ants, and land crabs. In the northeast, the Great

Horned Owl is the primary predator on adults, and predation on adults by the Peregrine Falcon has also been documented. Other significant avian predators (on eggs or chicks) include: Black-crowned Night-Heron, Herring and Great Black-backed Gulls, American Crow, and Red-winged Blackbird.

Responses to predators and intruders. The Roseate Tern prefers to nest on islands lacking mammalian predators. Eggs and chicks are cryptically colored and well-concealed under vegetation, debris, or rocks. Roseates are less aggressive birds than Common Terns, and rely on Commons for defense in the nesting colony. Attack rate peaks at hatching. Roseates dive at, and sometimes strike, various avian predators. Roseates circle above humans and dive at them, but do not make physical contact or defecate on them. Roseates in the Caribbean have been shown to respond more vigorously to familiar *versus* unfamiliar humans. As is the case for Common Terns, Roseates desert colonies at night when subject to nocturnal predation. This prolongs incubation periods for eggs, and exposes eggs and chicks to the elements and predation. Roseate nests and chicks, however, are better concealed, and thus less vulnerable, than those of Common Terns. Roseate adults, in contrast, are often disproportionately preyed upon in comparison to Common Terns from the same colony. Perhaps for this reason Roseates are quicker to abandon a site when predators are active.

LIFE HISTORY PARAMETERS: In Massachusetts, most Roseate Terns breed annually starting at 3 years old, some at ≥ 4 years. Only one brood per season is raised, but birds reneest after losing eggs or chicks. Estimating productivity is challenging due to inaccessible nest sites and chicks' hiding behavior, but productivity usually exceeds 1 chick fledged per pair (range: 0-1.6 chicks fledged per pair); older birds are more productive than younger ones. Survival from fledging to first breeding was estimated at about 20% for Connecticut birds. Annual survival of adults in the northeast was estimated to be about 80%. The oldest Roseate Tern documented was 25.6 years old; it was originally banded as a chick in Massachusetts.

STATUS: The northeastern population of the Roseate Tern is listed as Endangered federally and in Massachusetts principally because of its range contraction and secondarily because of its declining numbers. Prior to 1870, its status was somewhat obscure, but the Roseate was considered to be an

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abundant breeder within Common Tern colonies on Nantucket and Muskeget Is., MA. Prior to the 20th century, eggging was a problem in northeast colonies, but it was persecution of terns for the plume industry that greatly reduced numbers in the northeast to perhaps 2,000 pairs, mostly at Muskeget and Penikese Is., MA, by the 1880s. Following protection, numbers rose to the 8,500 pair level in 1930. From the 1930s through the 1970s, Roseates were displaced from nesting colonies by Herring and Great Black-backed Gulls, and had declined to 2,500 pairs by 1979. Following two decades of fairly steady increase, the Northeast U.S. population peaked at 4,310 pairs in 2000. Since then, however, the population has declined rapidly to 3,320 pairs (Roseate Tern Recovery Team, unpubl. 2006 data). The cause of this has not been identified, but data suggest that it may be related to mortality on the wintering grounds.

Approximately 85% of the population is dangerously concentrated at just 3 colonies: Great Gull Island, NY (1,227 pairs); Bird I., Marion, MA (1,111); and Ram I., Mattapoisett, MA (463). The only other nesting colonies in Massachusetts in 2006 were at Penikese I. (48 pairs) and Monomoy National Wildlife Refuge (NWR) (S. Monomoy and Minimoy Is.), Chatham (26 pairs).

Desertion of ≥ 30 major breeding sites over the past 80 years in most cases has been related to occupation of sites by gulls, and secondarily, to predation in the colonies (which may have intensified as terns were displaced by gulls to sites closer to the mainland). While populations in the state receive protection during the breeding season, the species is unprotected by South

American governmental entities and while in international waters. Prior to the 1980s, persecution by humans (trapping for food) on the wintering grounds may have affected Roseates nesting in the northeast. Major wintering areas for this population have not been identified; this, along with investigation of current threats on the wintering grounds, is badly needed.

CONSERVATION AND MANAGEMENT: Colonies are protected by posting of signs, by presence of wardens, and/or by exclusion of visitors. Wooden nest boxes and boards, partially buried tires, and other structures enhance the number of potential nest sites. Vegetation control is sometimes necessary when plant growth is dense enough to actually impede adults' ability to access nesting sites. The gradual loss of breeding sites in the Northeast, coupled with the Roseate's reluctance to colonize new sites, is a serious obstacle to recovery of the northeast population. The current overwhelming concentration of Roseates in Massachusetts in just two colonies in Buzzards Bay (Bird and Ram Is.), despite suitable conditions elsewhere, does not bode well for the population should one of these sites become unsuitable. Because of the regional importance of Massachusetts for Roseate recovery, several restoration projects have been initiated in the state. Restoring Common Terns to nesting sites is a necessary first step in restoring Roseates because of the Roseate's close association with the Common Tern at breeding colonies. Roseates were successfully restored to Ram I. after a gull control program in 1990-1991. A similar program at Monomoy NWR, begun in 1996, encouraged the expansion of a huge colony of Common Terns (9,747 pairs in 2005), but only a handful of Roseates nest there. Two other tern restoration projects -- at Penikese I., in Buzzards Bay, and at Muskeget I., in Nantucket Sound -- are currently underway, both involving aggressive discouragement of gulls from small portions of the islands; Roseates returned to Penikese in 2003, but numbers have fluctuated widely since then. Tern restoration is a long-term commitment that requires annual monitoring and management to track progress, identify threats, manage vegetation, prevent gulls from encroaching on colonies, and remove predators.

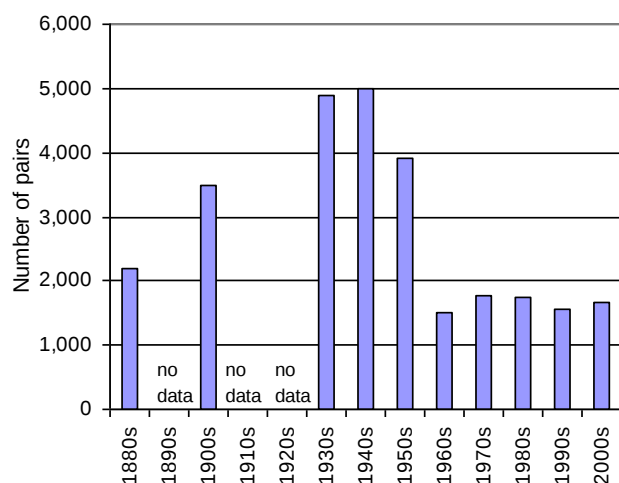


Figure 2. Roseate Tern population trends in Massachusetts, 1880s to 2006 (modified from Blodget and Melvin 1996).

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REFERENCES:

- Blodget, B.G., and S.M. Melvin. 1996. Massachusetts tern and piping plover handbook: a manual for stewards. Mass. Div. of Fisheries and Wildlife. Natural Heritage and Endangered Species Program. Westborough, MA.
- Gochfeld, M., J. Burger, and I.C.T. Nisbet. 1998. Roseate Tern (*Sterna dougallii*). In The Birds of North America, No. 370 (A. Poole and F. Gill, eds.). The Birds of North America, Inc., Philadelphia, PA.
- U. S. Fish and Wildlife Service. 1998. Roseate Tern recovery plan: northeastern population. First update. U. S. Fish and Wildlife Service. Hadley, MA.
- Veit, R.R., and W.R. Petersen. 1993. *Birds of Massachusetts*. Massachusetts Audubon Society. Lincoln, MA.

Updated 2015
Prepared by C.S. Mostello 2007

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Cassandra LaRochelle

From: Dykstra, Eliese <eliese_dykstra@fws.gov>
Sent: Tuesday, September 25, 2018 11:25 AM
To: Cassandra LaRochelle
Subject: USFWS Section 7 Concurrence Letter: MA 2016 Small MS4 General Permit
Attachments: 20180924_EPA_2016MS4Permit_Letter_Massachusetts Signed.pdf

Dear Cassandra LaRochelle,

Thank you for contacting us regarding the Massachusetts 2016 Small MS4 General Permit for the town of Dartmouth. Due to the large volume of consultation requests we have received in the past few months for the MA MS4 General Permit, we have created a letter in accordance with section 7 of the Endangered Species Act that may be used in place of an individual concurrence letter for projects that meet certain criteria. We have reviewed your consultation request for listed species that may be in your project action area and have attached our signed response below for you to include in your EPA application.

If you have questions or concerns, please let me know. I can be reached by email at eliese_dykstra@fws.gov, or phone at (603) 227-6427.

Sincerely,
Eliese Dykstra

--

Eliese Dykstra
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
New England Field Office
70 Commercial Street, Suite 300
Concord, NH 03301
Phone: 603-227-6427
Email: eliese_dykstra@fws.gov



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

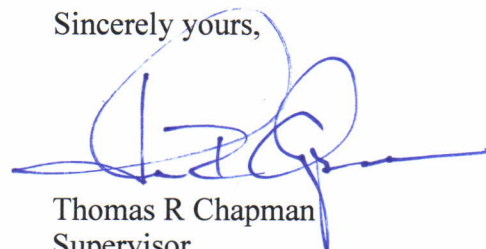
species listed under **Criterion C**,¹ you may still use this letter to certify under **Criterion B**. All existing guidance regarding requirements for certifying eligibility according to the USFWS Criterion A, B, or C for coverage by the 2016 MS4 Permit (see MA MS4 General Permit Appendix C – Endangered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

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).