

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

Construction/Erosion and Sediment Control (ESC) Authority Adopted? Effective Date or Estimated Date of Adoption (MM/DD/YY):

Post- Construction Stormwater Management Adopted? Effective Date or Estimated Date of Adoption (MM/DD/YY):

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)

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.

[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
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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 Implementation
Brochures/Pamphlets	Distribute fact sheets or brochures on pet waste pickup with dog licenses.	Residents	Town Clerk	Provide informational flyers with all applications and renewals.	2018
Brochures/Pamphlets	Distribute fact sheets to homeowners in close proximity to water resources.	Residents	Department of Public Works	Provide informational flyers to residents within environmentally sensitive areas.	2018
Brochures/Pamphlets	Distribute fact sheets or brochures on erosion and sediment control with permit applications	Developers (construction)	Planning Board, Conservation Commission, Building Department	Provide information with all applications	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 environmentally friendly products.	Residents	Information Technology, Department of Public Works	Continue to update and maintain the websites.	2018

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 Commerce	Information Technology, Department of Public Works	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, Department of Public Works	Continue to update and maintain the websites.	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, Department of Public Works	Continue to update and maintain the websites.	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

[illegible]

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

Part III: Stormwater Management Program Summary (continued)

MCM 2: Public Involvement and Participation

[illegible]

[illegible]

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 Implementation
SSO inventory	Develop SSO inventory in accordance of permit conditions	Department of Public Works, 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	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	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, 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	Department of Public Works, Board of Health	Continue to enforce IDDE bylaw, created May 2, 2006	2018

[illegible]

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 Implementation
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 / Zoning 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 / Zoning 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 / Zoning 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 / Zoning Department ▼	Complete within 1 year of the effective date of permit	2018 ▼
Construction Ordinance/ Bylaw ▼	Enforce existing Earth Removal bylaw	Planning Board, Conservation Commission, Building / Zoning Department ▼	Continue to enforce bylaw, created November 19, 2013	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 Implementation
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 / Zoning Department, De	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, Department of Public Works	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 / Zoning 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

[illegible]

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 Implementation
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, Building / Zoning Department	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	2018
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 permittee-owned parking lots in accordance with permit conditions	Department of Public Works	Sweep all streets and permittee-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

[illegible]

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.

Click to add text

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

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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.

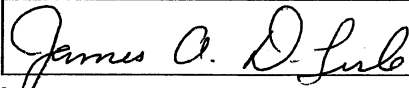
Name:

James A. DeLisle

Title:

Chairman, Board of Selectmen

Signature:

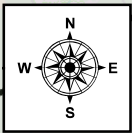


Date:

09/05/18

[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



ASHBURNHAM

FITCHBURG

GARDNER

LEOMINSTER

PRINCETON

STERLING

HUBBARDSTON

Legend

- | | |
|------------------------------|---------------------------------------|
| Outfall | Land Use |
| 2010 Urbanized Area | Residential / Commercial / Industrial |
| 2000 Urbanized Area | Agriculture |
| Hydrography | Forest |
| Lake, Pond, Reservoir, River | Water |
| Wetland, Marsh, Swamp | Wetland |
| Stream, Brook | Disturbed Land |
| | Other Cleared Land |



Stormwater Map

Westminster, MA



Comprehensive
Environmental
Incorporated



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 – Westminster, 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 Westminster, 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 Westminster 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:



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- Inspection
- Responsive service,
cost-effective solutions,
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- 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 Westminister 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."

Terrestrial Animals

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.



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- Watershed Restoration

Puritan Tiger Beetle, “not likely to adversely affect” – These beetles inhabit the sandy beaches and silt banks along large rivers, including the Connecticut River. The beetles are not present in the town, but the discharge from the system is eventually received by the Connecticut River. The larva burrow into the sand and can survive temporary flooding. Primary threats to the beetles include permanent flooding due to river damming, recreation, and man-made bank stabilization, such as retaining walls. The pre-existing stormwater discharges will not cause permanent flooding and are thus unlikely to impact the beetle’s habitat. Because of this, CEI has determined that activities covered by this permit are “not likely to adversely affect” the Puritan Tiger Beetle.

Plants

Small Whorled Pogonia, “no effect” – 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 will have “no effect” on the species.

Northeastern Bulrush, “not likely to adversely affect” – Found in wetlands with organic soils, fluctuating water levels and full sun. The plant is not present in the town, but the discharge from the system is received by areas in which it is listed. The primary threat to the species is loss of fluctuating water levels. Unlike a dam or impoundment, stormwater discharges do not permanently change the water level. 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 Westminster 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.



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- Transportation
- Water & Wastewater
- Watershed Restoration

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-2533

Event Code: 05E1NE00-2018-E-05939

Project Name: Westminster 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-2533

Event Code: 05E1NE00-2018-E-05939

Project Name: Westminster 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/42.54422106857467N71.84974755410661W>



Counties: Hartford, CT | Middlesex, CT | New London, CT | Essex, MA | Franklin, MA | Hampden, MA | Hampshire, MA | Middlesex, MA | Worcester, MA | Hillsborough, NH

Endangered Species Act Species

There is a total of 6 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
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
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

Insects

NAME	STATUS
Puritan Tiger Beetle <i>Cicindela puritana</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6073	Threatened

Flowering Plants

NAME	STATUS
Northeastern Bulrush <i>Scirpus ancistrochaetus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6715	Endangered
Small Whorled Pogonia <i>Isotria medeoloides</i> No critical habitat has been designated for this species. 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

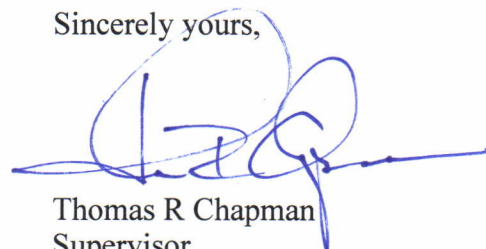
species listed under **Criterion C**,¹ you may still use this letter to certify under **Criterion B**. All existing guidance regarding requirements for certifying eligibility according to the USFWS Criterion A, B, or C for coverage by the 2016 MS4 Permit (see MA MS4 General Permit Appendix C – Endangered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

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).

From: [Joshua Hall](#)
To: [Vuto, Michelle](#)
Cc: [Nick Cristofori](#); [Patrick Haley](#)
Subject: FW: Comments to Westminster's MS4 NOI
Date: Friday, March 22, 2019 9:01:30 AM
Attachments: [Westminster MS4 NOI, Signed with Attachments.pdf](#)

Michelle,

Good morning. In response to the NOI comments, the Town of Westminster offers the following response:

1. Please attach the outfall map required under the 2003 permit. Attached please find the original NOI with appropriate attachments as submitted to EPA on 9/26/2018 which includes an outfall map. In order to facilitate easier public review, it is recommended that EPA host the entire NOI and all attachments for download on its website. Although NOIs from several other communities appear to contain all relevant attachments, it appears that the .pdf uploaded for Westminster erroneously removed the stormwater map.
2. Are all waterbodies/outfalls accounted for in the receiving waters list (e.g. Burntmill Brook/swamp surrounding the brook)? If not, please list any missing waterbodies. As noted in Part II of the NOI, communities must "list the waterbody segments to which your MS4 discharges". The waterbodies listed in Part II of the NOI outline all receiving waterbodies with known outfalls. It is possible that additional waterbodies are present within Westminster, however do not receive any known discharges. Similarly, it is possible that outfalls do not discharge to, or nearby to, a waterbody, hence what could be some of the discrepancy. Specifically regarding Burntmill Brook, this waterbody was listed as "unnamed stream from Tophet Swamp to Round Meadow Pond" in Part II of the NOI (9 outfalls total). Tophet Swamp is located roughly between State Road West and West Main Street on the figure provided on page 1 of the NOI comment letter. As Burntmill Brook is not listed on the 303d list (or in MassGIS databases I believe), there appears to be some ambiguity in the name of this particular reach. Scenic Drive and Fenno Drive also discharge to the same waterbody, however note that not all of these roadways are located within the urbanized area.
3. Please attach the IPaC results along with USFWS correspondence if applicable. Is the ESA designation criterion B? Attached please find the original NOI with appropriate attachments as submitted to EPA on 9/26/2018 which includes ESA designation criteria documenting compliance with Criterion B. In order to facilitate easier public review, it is recommended that EPA host the entire NOI and all attachments for download on its website. Although NOIs from several other communities appear to contain all relevant attachments, it appears that the .pdf uploaded for Westminster erroneously removed the endangered species information.
4. Do current town bylaws/regulations meet the construction/erosion and sediment control practice requirements as required by the 2003 permit? The Town has a combination of regulatory mechanisms, including earth disturbance, site plan review, subdivision regulations, Low Impact Development bylaw, and wetlands protection bylaw with components designed to target erosion and sediment controls during construction. These regulatory mechanisms have been enacted as far back as 2005 in response to the 2003 permit and other environmental protection needs of the Town, with some of them having also been updated since that time. After adopting these regulatory mechanisms, Westminster felt that they met

the 2003 permit requirements as pertains to construction/erosion and sediment control for typical development projects throughout the town. However as you know, the 2016 permit requires additional items related to erosion and sediment controls, such as site plan review procedures, inspection procedures, and others. In response to these items that must be in place by June 30, 2019 and unrelated to the NOI comment letter, multiple Town departments and two separate engineering consulting firms recently undertook a preliminary review of the Town's existing regulatory mechanisms in part to determine status under the 2003 permit and needs under the 2016 permit. In short, there appear to be a small number of projects that may not be subject to the erosion and sediment controls required under the 2003 permit. The Town is actively working towards updating its regulations to comply not only with 2003 permit requirements, but with 2016 permit requirements as well. Final actions are to be determined, however the Town is working with its consultants to determine next steps and currently anticipates creating a comprehensive Stormwater Control Bylaw or similar regulatory mechanism to jointly meet requirements of Minimum Measure 4 and 5 in the 2016 permit. The Town is currently reviewing a sample bylaw and comparing it to existing regulations to determine recommended ways to update its existing regulations. It is anticipated that a revised regulatory mechanism will be put up for vote at an upcoming town meeting, i.e. November 2019 or May 2020. Westminster will also have other requirements as required by the 2016 permit related to construction site inspections and plan review in place by June 30, 2019 as a components of its written Stormwater Management Program (SWMP) Plan. In summary, there appears to a small number of projects within the Town's urbanized area and that also discharge to the MS4 or a waterbody that do not fully meet 2003 permit requirements. In response, Westminster is actively working towards regulating all development to meet requirements of not only the 2003 permit, but the 2016 permit as well. The Town feels that it has made a good faith effort to meet 2003 permit requirements and is looking ahead to implement 2016 permit requirements.

5. Do current town bylaws/regulations meet the post-construction stormwater management requirements as required by the 2003 permit? As correctly noted in the NOI comment letter, the Town implemented a Low Impact Development bylaw in November 2006 which regulates both new and re-development as small as 10,000 square feet as required by the 2003 permit, however excludes single family houses from regulation. Regarding single family houses, they may be covered by the LID bylaw, subdivision bylaw, wetlands protection bylaw (for those within regulated areas) or other bylaw in the vast majority of cases, generally limited to those disturbing greater than one acre that discharge to the Town's regulated MS4 system or other waterbody. Although it's possible that construction of a single family house would disturb greater than one acre in an area subject to the MS4 permit requirements and not be reviewed by the LID bylaw, subdivision bylaw, or any other regulatory requirements within the various town departments, it's felt that the vast majority of single-family housing projects disturb less than this amount in order to retain the wooded characteristics popular throughout Westminster. Thus, the Town of Westminster feels that it has met the requirements of the 2003 permit, however as you know, this requirement is substantially changed under the 2016 permit. As noted in the response to Item #4 above, multiple Town departments and two consultants recently conducted a preliminary review of the Town's regulatory mechanisms and will be making changes to applicable bylaws to fully meet 2016 permit requirements as well as developing new LID regulations, that as correctly noted in the NOI comment letter,

have not yet been enacted. It is anticipated that the new LID regulations will encompass at least the 2016 permit requirements, as well as incorporate additional best management practices for environmental protection as recommended by the town and its consultants. Although timetables are tentative, the Town envisions reviewing the final regulations during late spring 2019 and adopting regulations sometime during the summer of 2019. As part of this exercise, the Town also plans to assess its existing regulations as pertains to green infrastructure, street design and parking lot guidelines, and implement requirements for nutrients treatment as required under the 2016 permit a full 3 years ahead of schedule. In summary, there appears to a small number of projects generally limited to single family houses located within the Town's urbanized area and that also discharge to the MS4 or a waterbody that do not fully meet 2003 permit requirements, however the majority of development is covered under the Town's existing bylaws and regulations. Additionally, Westminster is actively working towards regulating all development to meet requirements of not only the 2003 permit, but the 2016 permit as well with many of the required items being implemented years ahead of schedule. The Town feels that it has made a good faith effort to meet 2003 permit requirements and is already looking ahead to implementing 2016 permit requirements on or ahead of schedule.

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

Thanks,
Josh

Joshua W. Hall, P.E.
Director of Public Works

Town of Westminster
2 Oakmont Avenue
Westminster, Massachusetts 01473
Phone: 978-874-5572
Fax: 978-874-0445
jhall@westminster-ma.gov

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From: Vuto, Michelle [mailto:Vuto.Michelle@epa.gov]
Sent: Tuesday, March 5, 2019 1:54 PM
To: Joshua Hall
Cc: Nick Cristofori
Subject: Comments to Westminster's MS4 NOI

Hello Joshua,

EPA received comments on the Town of Westminster's Small MS4 NOI. The comments are attached for your reference. In order to address the comments, please provide answers to the following questions:

1. Please attach the outfall map required under the 2003 permit.
2. Are all waterbodies/outfalls accounted for in the receiving waters list (e.g. Burntmill Brook/swamp surrounding the brook)? If not, please list any missing waterbodies.
3. Please attach the IPaC results along with USFWS correspondence if applicable. Is the ESA designation criterion B?
4. Do current town bylaws/regulations meet the construction/erosion and sediment control practice requirements as required by the 2003 permit?
5. Do current town bylaws/regulations meet the post-construction stormwater management requirements as required by the 2003 permit?

EPA cannot authorize the Town of Westminster to discharge under the 2016 Small MS4 Permit until these answers have been received. You do not need to resubmit your entire NOI form. Please respond to this email no later than 30 days from the date of this email, unless additional time is granted by EPA for such submission.

Please let me know if you have any questions.

Best,
Michelle

Michelle Vuto
Stormwater & Construction Permits
U.S. EPA Region 1
5 Post Office Square—OEP06-4
Boston, MA 02109-3912
617-918-1222