



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

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MASS.GOV/MASSWILDLIFE

Jack Buckley, *Director*

October 26, 2017

Gregory Stone
Lighthouse Inn, Inc.
PO Box 128
West Dennis MA 02670

RE: Applicant: Gregory Stone
 Project Location: 1 Lighthouse Road, Dennis
 Project Description: Reconfigure Groins & Beach Nourishment
 NHESP File No.: **16-36164**

Dear Commissioners & Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent with site plans (dated 01/30/2017, revised 07/14/2017) in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37). The Division also received the MESA Review Checklist and supporting documentation for review pursuant to the MA Endangered Species Act Regulations (321 CMR 10.18).

The Division has determined that this Project, as currently proposed, will occur **within** the actual habitat of the Piping Plover (*Charadrius melodus*) and Least Tern (*Sternula antillarum*), species state-listed as Threatened and Special Concern, respectively. These species and their habitats are protected in accordance with the rare species provisions of the WPA and the MESA. The Piping Plover is federally protected as Threatened pursuant to the U.S. Endangered Species Act (ESA, 50 CFR 17.11).

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

WETLANDS PROTECTION ACT (WPA) & MASSACHUSETTS ENDANGERED SPECIES ACT (MESA)

Based on the information provided and the information contained in our database, it is the opinion of the Division that a portion of this project, as currently proposed, **must be conditioned in order to avoid adverse effects** to the Resource Area Habitats of state-listed wildlife species (310 CMR 10.37) and **must be conditioned in order to avoid a prohibited Take** of state-listed species (321 CMR 10.18(2)(a)). The following conditions must be met:

- 1) All work associated with the groin installation, maintenance, and sand nourishment is prohibited during the period **April 1 – August 31**, to protect breeding shorebird species.

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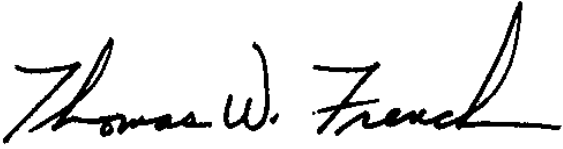
- 2) Within 30 days of the completion of construction, installation, and nourishment, a summary report, photographs, and as-built survey must be submitted to the Division.
- 3) As proposed, a copy of the monitoring reports will be provided to the Division. The monitoring program will occur at 11 locations along the shoreline and there will be a minimum of one pre-construction survey. Transects will be surveyed a minimum of twice per year (mid-April and mid-September) over a three-year period post-construction. The reports will be used to determine if additional nourishment is warranted for impacts to state-listed species habitats.
- 4) The applicant has the responsibility of protecting breeding Piping Plovers and state-listed species of terns that may be on this section of beach. Therefore, the applicant shall allow regular monitoring for the presence of Piping Plovers and terns by a qualified shorebird monitor, as determined by the Division, during the period April 1 – August 31 and shall allow any nests, scrapes, or unfledged chicks to be protected with symbolic fencing (warning signs and twine fencing).
- 5) Upon filing for renewal, extension, or amendment of the Orders of Conditions, the applicant shall contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife.
- 6) This approval does not relieve the applicant or any other person of necessity from complying with all applicable federal, state, or local statutes, ordinances, bylaws, or regulations, including but not limited to those administered by the US Army Corps of Engineers, the MA Department of Environmental Protection, Coastal Zone Management, and the local Conservation Commission.

Provided these conditions are included in any approving Orders of Conditions issued by the Conservation Commission, and the applicant complies with all the above noted conditions, the project will not result in an adverse impact to the resource area habitats of state-listed wildlife species pursuant to the WPA and will not result in a prohibited Take pursuant to the MESA. A copy of the final Order of Conditions shall be sent to the NHESP simultaneously with the applicant as stated in the Procedures section of the WPA (310 CMR 10.05(6)(e)).

We note that all work is subject to the anti-segmentation provisions (321 CMR 10.16) of the MESA. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This determination is valid for five years from the date of issuance. This project may be subject to further review if no physical work is commenced within five years from the date of issuance, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Amy Hoenig, Endangered Species Review Biologist, at (508) 389-6364.

Sincerely,

A handwritten signature in black ink that reads "Thomas W. French". The signature is written in a cursive style with a large, sweeping flourish at the end of the word "French".

Thomas W. French, Ph.D.
Assistant Director

cc: MA DEP Southeast Region
Mark White, Environmental Partners Group, Inc