



DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

MA ENDANGERED SPECIES ACT (G.L. c.131A) CONSERVATION AND MANAGEMENT PERMIT

DATE	June 1, 2018
CONSERVATION PERMIT NO.:	018-323.DFW
NHESP FILE NO.	18-37711
PERMIT HOLDER	Duxbury Beach Reservation, Inc.
ACTIVITY	Use of Roads and Parking Lots in the Vicinity of Unfledged Piping Plover Chicks, Duxbury Beach Reservation, Inc. Duxbury, MA

Pursuant to the authority granted in the Massachusetts Endangered Species Act ("MESA") (G.L. c. 131A) and its implementing regulations (321 CMR 10.23), the Director of the Massachusetts Division of Fisheries & Wildlife (the "Division") hereby issues a Conservation and Management Permit to Duxbury Reservation, Inc. (the "Permit Holder"). This permit and associated Duxbury Beach Reservation, Inc. Certificate of Inclusion in the Massachusetts Habitat Conservation Plan (HCP) issued in accordance with the Endangered Species Act (ESA) for Piping Plover, dated June 1, 2018 (the "COI"), authorize the Taking of the State and Federally listed Piping Plover which is listed as "Threatened" pursuant to the MESA and "Threatened" pursuant to ESA arising out of use of roads and parking lots in the vicinity of unfledged Piping Plover chicks more particularly described in documents attached hereto (the "Activity"), at Duxbury Beach Reservation, Inc., Duxbury, Massachusetts (the "Property").

During a given beach season, a maximum of 8 Piping Plover broods could be exposed to beach access and essential vehicle road use.¹ However, intensive monitoring of the chicks, ability to temporarily halt traffic, signage, staff training and other impact avoidance and minimization procedures required by way of this Permit and the HCP will significantly decrease risk.

Under the authority granted by and in accordance with MGL c131A§3 and 321 CMR 10.23, the Director may permit the Taking of a State-listed Species for conservation and management purposes provided that there is a long-term Net Benefit to the conservation of the impacted species. If the Director determines that the applicant for a permit has avoided, minimized and mitigated impacts to the State-listed Species consistent with the following Performance Standards, then the Director may issue a conservation and management permit, provided:

¹ The Division has requested an amendment to the HCP that would allow coverage of the exposure of up to 11 broods at this site, without altering the total amount of Take exposure allowed in Massachusetts, overall. If the amendment is approved, this Permit will be extended to cover the exposure of up to 11 broods per season, pursuant to the provisions of Condition 2, below.

- (a) the applicant has adequately assessed alternatives to both temporary and permanent impacts to State-listed Species;
- (b) an insignificant portion of the local population would be impacted by the Activity or Activity, and;
- (c) the applicant agrees to carry out a conservation and management plan that provides a long-term Net Benefit to the conservation of the State-listed Species that has been approved by the Director, as provided in 321 CMR 10.23(5), and shall be carried out by the applicant.

The Director has determined that the applicant for this permit has met the above noted Performance Standards and that the conservation and management plan described herein provides a long-term Net Benefit to the affected state-listed species.

Pursuant to this permit, impact avoidance and minimization measures including signage, traffic management, staff training, and enhanced chick monitoring will be implemented in order to minimize disturbance and the risk of direct mortality; selective predator management will be implemented in order to reduce nest and chick loss and increase production of chicks and fledglings.

Therefore, the Activity can be permitted pursuant to the MESA. This Conservation and Management Permit (the "Permit") is issued to condition the Activities and to provide a long-term Net Benefit to the affected species.

In accordance with the document submitted to the Division entitled:

- "Massachusetts Habitat Conservation Plan for Piping Plover Request for Certificate of Inclusion" dated March 2018, revised April 20, 2018 (the "Plan"; Attachment A).

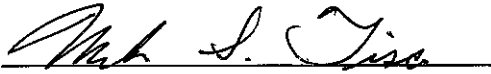
Incorporated by reference into this permit, and any other plans and documents referenced herein, this Conservation and Management Permit is issued with the following conditions:

Conditions:

1.	This Permit authorizes the exposure of: up to eight (8) Piping Plover broods to the Activity, road use and/or parking, subject to limitations described in Attachment A, and set forth in this Permit and the COI.
2.	Upon written notice to the Permit Holder, the Division may increase the Take exposure authorized by this Permit to eleven (11) Piping Plover Broods, provided that such action is consistent with the terms of a valid Incidental Take Permit (ITP) held by the Division, and provided that the Permit Holder implements mitigation and impact minimization to cover said increased exposure in accordance with the Plan (Attachment A).
3.	All Activities must be confined to the Duxbury Beach Reservation, Inc.-owned Property shown in Maps 1-4 in Appendix I of Attachment A.
4.	Other than the exceptions authorized by this Permit, the Permit Holder shall carry out beach use and management in compliance with the relevant State Guidelines and Federal Guidelines for management of recreational beaches with breeding plovers and terns effective during the term of the Permit.

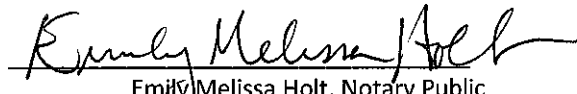
5.	This Permit authorizes only otherwise lawful activities. All activities carried out pursuant to this Permit must be carried out in accordance with applicable local, state, and federal statutes and regulations.
6.	As set forth in the COI, all activities authorized by this Permit must be carried out in accordance with the Final Massachusetts Division of Fisheries & Wildlife Habitat Conservation Plan for Piping Plover (HCP), dated June 2016, and Incidental Take Permit (ITP) No. TE01281C-0, dated July 8, 2016, or valid amendments and successors to said documents. The COI, HCP and ITP are incorporated by reference into this Permit. By acceptance of this Permit, the Permit Holder acknowledges receipt of copies of the COI, HCP and ITP, official copies of which are located at the Division's field headquarters, 1 Rabbit Hill Rd., Westborough, MA.
7.	Division representatives shall have the right to enter and inspect the Property subject to this Permit at reasonable hours to evaluate permit compliance and require the submittal of any reasonable information not otherwise required by this Permit but deemed necessary by the Division to complete its evaluation.
8.	Any change to the proposed Plan shall require the Permit Holder to inquire of the Division, in writing, whether the change is significant enough to require the filing of a new Conservation and Management Permit Application, and or require additional long-term Net Benefit for affected State-listed species. The Division retains the right to require the submittal of additional, reasonable information to evaluate the plan change.
9.	Prior to implementing the Plan, the Permit Holder shall notify the Division in writing of the name, address, business and home telephone numbers of the manager responsible for compliance with this Conservation and Management Permit. The Permit Holder shall provide updated information in writing to the Division should a new or additional manager be hired after the Activity has commenced.
10.	The Permit Holder shall notify the Division at least 24 hours prior to initiating any covered Activity affecting a new brood of Piping Plover not previously exposed.
11.	Prior to the implementation of the Plan or any covered activity in any given year, the Permit Holder shall provide the Division with proof that it has secured adequate funding to implement the annual requirements of the Plan consistent with the budget provided in the Plan.
12.	Impact avoidance and minimization procedures to protect Piping Plovers shall be implemented in accordance with the Plan.
13.	Interim and annual reporting shall be conducted in accordance with the Plan.
14.	Beginning during spring 2018, the Permit Holder shall carry out selective predator management in accordance with the plan set forth in Attachment A. Prior to carrying out covered activities in 2019 and 2020, the Permit holder shall provide annual selective predator management scopes of work, developed by qualified experts, for review and approval by the Division. The Division-approved annual scope of work shall be carried out by the Permit Holder in advance of implementing the Activity in that year. The Permit Holder shall be responsible for meeting the mitigation ratios and commitments set forth in Part 6 of Attachment A and may be required by the Division to perform supplemental work in the following beach season to address year to year

	changes in the plover breeding populations, as described in the HCP.
15.	In accordance with the HCP, the Permit Holder must obtain written reauthorization from the Division to carry out covered activities prior to the 2019 and 2020 beach seasons. No covered activities may be carried out in 2019 or 2020 prior to receipt of written reauthorization. As set forth in the HCP, the Division may, in its sole discretion, reduce the allowable Take exposure for those years or decline to reauthorize any exposure.
16.	A violation of any condition of this Permit, COI, HCP or the ITP will result in an unauthorized Take pursuant to M.G.L. c. 131A or under the HCP or ITP may be subject to civil and or criminal penalties pursuant to M.G.L. c. 131A. In the event of such non-compliance, the Division may suspend, or revoke this Permit and the COI. The Permit Holder shall have the right to request an appeal within 30 days of any suspension or revocation of this Permit or COI in accordance with the requirements of Condition No. 16 below.
17.	<p><u>Notice of Appeal Rights:</u> This Determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.23. Any person aggrieved by this decision shall have the right to an adjudicatory hearing at the Division pursuant to M.G.L. c. 30A, s.11 in accordance with the procedures for informal hearings set forth in 801 CMR 1.02 and 1.03.</p> <p>Any notice of claim for an adjudicatory hearing shall be made in writing and be accompanied by a filing fee in the amount of \$500.00. The notice of claim shall be sent to the Division by certified mail, hand delivered or postmarked within 21 days of the date of the Division's Determination to:</p> <p style="text-align: center;">Mark S Tisa Acting Director Division of Fisheries and Wildlife Field Headquarters One Rabbit Hill Road Westborough, MA 01581</p> <p>Any notice of claim for an adjudicatory hearing shall include the following information:</p> <ol style="list-style-type: none"> 1. The file number for the Activity; 2. The complete name, address and telephone number of the person filing the request, and the name, address and telephone number of any authorized representative; 3. The specific facts that demonstrate that a party filing a notice of claim satisfies the requirements of an "aggrieved person," including but not limited to (a) how they have a definite interest in the matters in contention within the scope of interests or area of concern of M.G.L. c. 131A or the regulations at 321 CMR 10.00 and (b) have suffered an actual injury which is special and different from that of the public and which has resulted from violation of a duty owed to them by the Division; 4. A clear statement that an adjudicatory hearing is being requested; 5. A clear and concise statement of facts which are grounds for the proceeding, the specific objections to the actions of the Division and the basis for those objections; and the relief sought through the adjudicatory hearing; and a statement that a copy of the request has been sent by certified mail or hand delivered to the applicant and the Record Owner, if different from the applicant.



Mark S Tisa, Acting Director
Massachusetts Division of Fisheries & Wildlife

On this 1st day of June 2018, before me, the undersigned notary public, personally appeared Mark S Tisa, Acting Director, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

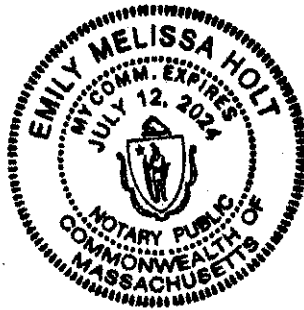


Emily Melissa Holt, Notary Public
My Commission expires: July 12, 2024

Conservation Permit 018-323.DFW

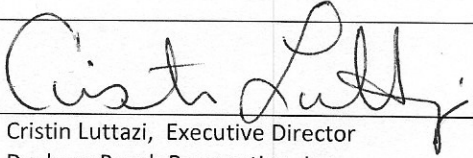
Issued this 1st day of June, 2018

Permit Expires: 1 December 2020



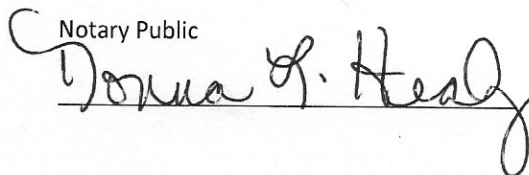
ACKNOWLEDGEMENT AND ACCEPTANCE OF ALL TERMS OF THIS CONSERVATION PERMIT

The undersigned below agrees that commencement of any work authorized by and described in this Conservation and Management Permit constitutes acknowledgement and acceptance of all terms of this permit.

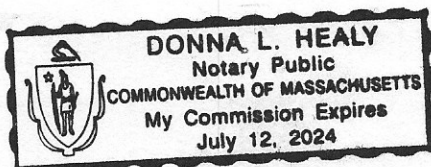

Cristin Luttazi, Executive Director
Duxbury Beach Reservation, Inc.

COMMONWEALTH OF MASSACHUSETTS

On this 1st day of June, 2019, before me, the undersigned notary public, personally appeared Cristin Luttazi, proved to me through satisfactory evidence of identification which was MADL to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

Notary Public


SEAL



My commission expires: 07/12/2024

Distribution List

Duxbury Board of Selectman
Duxbury Conservation Commission
DEP Southeast Regional Office, Wetlands Program
David Simmons & Susi von Oettingen, USFWS

MASSWILDLIFE