

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> | <input type="text" value="No"/> | Effective Date or Estimated Date of Adoption (MM/DD/YY): | <input type="text" value="12/31/18"/> |
| Construction/Erosion and Sediment Control (ESC) Authority Adopted? <i>(Part II, III, IV or V, Subpart B.4.(a.) of 2003 permit)</i> | <input type="text" value="No"/> | Effective Date or Estimated Date of Adoption (MM/DD/YY): | <input type="text" value="12/31/18"/> |
| Post- Construction Stormwater Management Adopted? <i>(Part II, III, IV or V, Subpart B.5.(a.) of 2003 permit)</i> | <input type="text" value="No"/> | Effective Date or Estimated Date of Adoption (MM/DD/YY): | <input type="text" value="12/31/18"/> |

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 | Educational message for residents | Residents | Department of Public Works | Distribute minimum 2 messages over permit term | 2018 |
| Brochures/Pamphlets | Educational message for businesses | Residents/Businesses, Institutions and Commercial Facilities | Department of Public Works | Distribute minimum 2 messages over permit term | 2018 |
| Brochures/Pamphlets | Educational message on construction BMPs | Developers (construction) | Department of Public Works | Distribute minimum 2 messages over permit term | 2018 |
| Brochures/Pamphlets | Educational message for industrial users | Industrial Facilities | Department of Public Works | Distribute minimum 2 messages over permit term | 2018 |
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Notice of Intent (NOI) for coverage under Small MS4 General Permit

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

MCM 3: Illicit Discharge Detection and Elimination (IDDE)

| BMP Categorization (enter your own text to override the drop down menu) | BMP Description | Responsible Department/Parties (enter your own text to override the drop down menu) | Measurable Goal (all text can be overwritten) | Beginning Year of BMP Implementation |
|---|---|---|--|---|
| SSO inventory | Develop SSO inventory in accordance of permit conditions | Department of Public Works | 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 | Complete 10 years after effective date of permit | 2018 |
| Employee training | Train employees on IDDE implementation | Department of Public Works | 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 | 2018 |
| Conduct wet weather screening | Conduct in accordance with outfall screening procedure | Department of Public Works | Complete 10 years after effective date of permit | 2018 |
| Ongoing screening | Conduct dry weather and wet weather screening (as necessary) | Department of Public Works | Complete ongoing outfall screening upon completion of IDDE program | 2018 |
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Notice of Intent (NOI) for coverage under Small MS4 General Permit

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

MCM 4: Construction Site Stormwater Runoff Control

| BMP Categorization (enter your own text to override the drop down menu or entered text) | BMP Description | Responsible Department/Parties (enter your own text to override the drop down menu) | Measurable Goal (all text can be overwritten) | Beginning Year of BMP Implementation |
|---|---|---|---|---|
| Site inspection and enforcement of Erosion and Sediment Control (ESC) measures | Complete written procedures of site inspections and enforcement procedures | Department of Public Works | Complete within 1 year of the effective date of permit | 2018 |
| Site plan review | Complete written procedures of site plan review and begin implementation | Department of Public Works | 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 | Department of Public Works | 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 | Department of Public Works | Complete within 1 year of the effective date of permit | 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 | Department of Public Works | 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 | Department of Public Works | Complete 4 years after effective date of permit and report annually on retrofitted properties | 2021 |
| 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 | Department of Public Works | Complete 4 years after effective date of permit and implement recommendations of report | 2021 |
| 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. | Department of Public Works | Complete 4 years after effective date of permit and implement recommendations of report | 2021 |

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 <small>(enter your own text to override the drop down menu or entered text)</small> | BMP Description | Responsible Department/Parties <small>(enter your own text to override the drop down menu)</small> | Measurable Goal <small>(all text can be overwritten)</small> | 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 | 2018 |
| Inventory all permittee-owned parks and open spaces, buildings and facilities, and vehicles and equipment | Create inventory | Department of Public Works | Complete 2 years after effective date of permit and implement annually | 2018 |
| 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 | 2018 |
| 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 |

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.

The city is an existing facility that was authorized by the previous permit. There are no planned activities that will affect historic properties. Therefore, this facility is eligible for coverage under Criterion A for determination of coverage under the National Historic Preservation Act (NHPA).

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:

Title:

Signature:

Date:

[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

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:

Title:

Signature:

Date:

[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



260 West Exchange Street, Suite 300
Providence, Rhode Island 02903
tel: 401 457-0321

August 27, 2018

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

Subject: Project Review Request, City of Brockton MS4, Brockton, Massachusetts, SLI
Number: 05E1NE00-2018-E-06787

Dear Reviewer:

We have reviewed the referenced project using the Environmental Protection Agency's (EPA) project review process for our Municipal Separate Storm Sewer System (MS4) and have followed all guidance and instructions in completing the review. We completed our review on August 27, 2018 and are submitting our project package in accordance with the instructions for further review. The U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) species list indicated these species may be present in the project area: Northern Long Eared Bat. We are submitting this letter as a non-Federal representative of the EPA pursuant to the requirements of the EPA's process for NPDES/MS4 permits.

Our proposed action consists of implementation of a series of non-structural BMPs (e.g. improved drainage system maintenance, implementation of local ordinances/by-laws to control erosion and sedimentation, illicit discharge detection and eliminations program, and implantation of public outreach programs) to protect and improve the quality of stormwater conveyed to receiving water via the existing municipal drainage system. These non-structural BMPs will not adversely affect the water quality of the local receiving waters, but rather will improve water quality over the long term. Therefore, it is our opinion that the City is eligible for coverage pursuant to the Permit. We respectfully request written concurrence from the USFWS that the continued discharge of municipal stormwater to the receiving waters via the existing municipal drainage system will have *no affect/no adverse affect* to federally protected endangered or threatened species. In the future, if the City determines structural BMPs are required to improve water quality, a separate request will be made to the USFWS as part of that specific project. In order to meet EPA-mandated submission requirements we would appreciate a response by September 20, 2018. The location action area is identified on the enclosed map.

Permit implementation will begin in the fall of 2018 and the permit has an expiration date of June 30, 2022.



USFWS

August 27, 2018

Page 2

This is a request for review by the Service pursuant to section 7 of the Endangered Species Act. We determined that the project may affect but is not likely to adversely affect the above listed species, because these non-structural BMPs will not adversely affect the water quality of the local receiving waters, but rather will improve water quality over the long term. The species are further identified below with specific information regarding the project impacts to each.

- Northern Long-eared Bat (*Myotis septentrionalis*) – The project proposes implementation of non-structural efforts to improve stormwater discharge quality and will not impact the environments utilized by the norther long-eared bat.

The enclosed project package provides the information about the species and/or critical habitat considered in our review, and we identified our determinations for the resources that may be affected by the project. We request you concur with our determination that the project may affect but is not likely to adversely affect the species described above. For additional information, please contact me at the address listed above, by phone at 401-457-0321, or gallantdj@cdmsmith.com.

Sincerely,

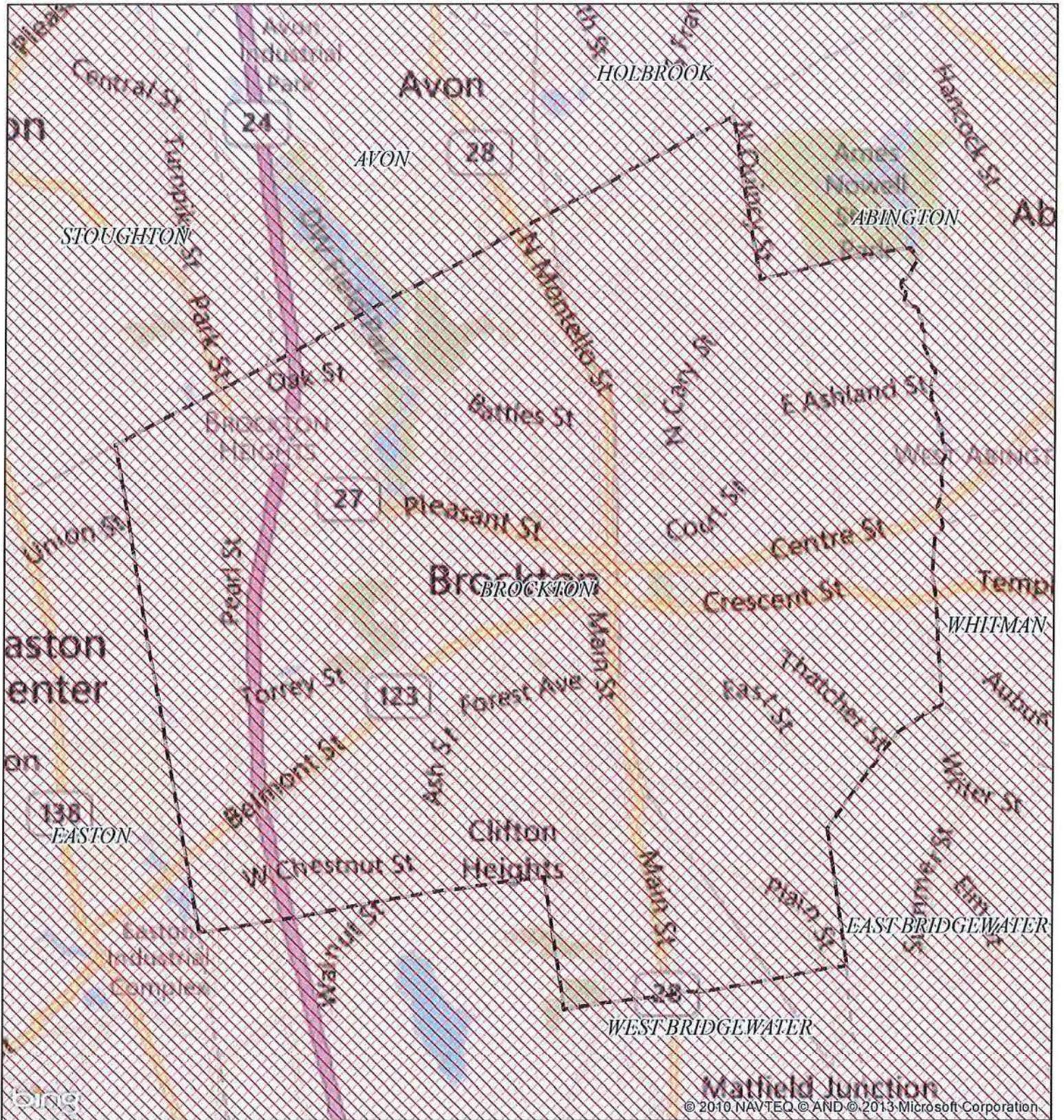
A handwritten signature in blue ink that reads "Danielle Gallant".

Danielle Gallant, QEP
Environmental Scientist
CDM Smith Inc.

cc: Eilish Corey, CDM Smith

Enclosures: List of Threatened or Endangered Species from USFWS
Brockton, MA Designated MS4 Areas

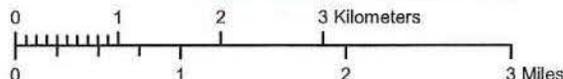




NPDES Phase II Stormwater Program
Automatically Designated MS4 Areas

Brockton MA

Regulated Area:



Town Population: **93766**
Regulated Population: **93766**
(Populations estimated from 2010 Census)



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



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:

August 27, 2018

Consultation Code: 05E1NE00-2018-SLI-2883

Event Code: 05E1NE00-2018-E-06787

Project Name: Brockton Ms4 NOI

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-2883

Event Code: 05E1NE00-2018-E-06787

Project Name: Brockton Ms4 NOI

Project Type: ** OTHER **

Project Description: Ms4 NOI Project for the City of Brockton, Massachusetts

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/42.08425965164686N71.02695484414863W>



Counties: Plymouth, MA

Endangered Species Act Species

There is a total of 1 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.

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

Mammals

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

Critical habitats

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

Corey, Eilish

To: Gallant, Danielle (Lemoi)
Subject: RE: USFWS Section 7 Concurrence Letter: MA 2016 Small MS4 General Permit

From: Dykstra, Eliese <eliese_dykstra@fws.gov>
Sent: Wednesday, September 26, 2018 8:47 AM
To: Gallant, Danielle (Lemoi) <GallantDJ@cdmsmith.com>
Subject: USFWS Section 7 Concurrence Letter: MA 2016 Small MS4 General Permit

Dear Danielle Gallant,

Thank you for contacting us regarding the Massachusetts 2016 Small MS4 General Permit for the towns of Brockton, Marion, and New Bedford. 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

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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

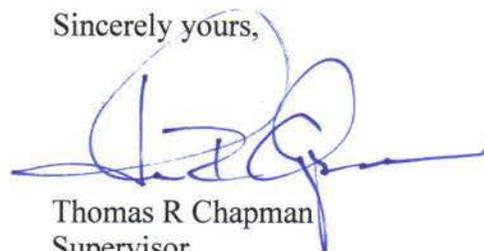
species listed under **Criterion C**,¹ you may still use this letter to certify under **Criterion B**. All existing guidance regarding requirements for certifying eligibility according to the USFWS Criterion A, B, or C for coverage by the 2016 MS4 Permit (see MA MS4 General Permit Appendix C – Endangered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

From: [Chike Odunukwe](#)
To: [Vuto, Michelle](#)
Cc: [Larry Rowley](#); [Corey, Elish](#)
Subject: Small MS4 NOI Submission - Addition & Correct
Date: Wednesday, June 05, 2019 3:46:51 PM

Hi Michelle,

In response to your June 4th email, please find our responses to your comments:

- **Comment:** Please confirm that the town will follow the requirements in part I of Appendix H for nitrogen (all waterbodies in the Taunton River Watershed).

Response: The city will incorporate the requirements in part I of Appendix H for nitrogen into the SWMP.

- **Comment:** Also, just as a note, the town should follow the requirements in permit part A.III of Appendix F (instead of part III of Appendix H) for all impairments/waterbodies that have a TMDL (e.g. for waterbodies covered by the Taunton River Watershed Bacteria/Pathogen TMDL).

Response: The city will incorporate the requirements in part A.III of Appendix F for all impairments/waterbodies that have a TMDL.

If you have any questions, please do not hesitate to reach out.

Chike C. Odunukwe, P.E.
City Engineer
Engineering Division, Department of Public Works
City of Brockton
45 School Street
Brockton, MA 02301
[508-897-6437](tel:508-897-6437)
codunukwe@cobma.us