

Conservation Commission

From: SERO_NOI@MassMail.state.ma.us
Sent: Tuesday, February 13, 2024 9:52 AM
To: mark.bartow@mass.gov; harrison.kisiel@vineyardlandbank.com
Cc: sero_noi@state.ma.us; concomm@westtisbury-ma.gov; amanda.veinotte@state.ma.us; sero_noi@state.ma.us
Subject: MassDEP NOI File Number

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOUTHEAST REGIONAL OFFICE
20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

Date: 02/13/2024 Municipality WEST TISBURY

RE: NOTIFICATION OF WETLANDS PROTECTION ACT FILE NUMBER

The Department of Environmental Protection has received a Notice of Intent filed in accordance with the Wetlands Protection Act (M.G.L. c. 131, §40):

Applicant	MARTHA'S VINEYARD LAND BANK COMMISSION	Owner Address
Address	40 MEETINGHOUSE WAY, EDGARTOWN MA	
Locus	68 & 72 CHRISTIANTOWN ROAD; 174 INDIAN HILL ROAD , WEST TISBURY MA	

This project has been assigned the following file # : **SE 079-0464**
ISSUANCE OF A FILE NUMBER INDICATES ONLY COMPLETENESS OF SUBMITTAL, NOT APPROVAL OF APPLICATION
Although a file # is being issued, please note the following:

Regards,
for MassDEP,

(508)-946-2746
Mark.Bartow@mass.gov



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DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

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

[MASS.GOV/MASSWILDLIFE](https://www.mass.gov/masswildlife)

February 26, 2024

Harrison Kisiel
Martha's Vineyard Land Bank Commission
40 Meetinghouse Way
Edgartown, Massachusetts 02539

West Tisbury Conservation Commission
P.O. Box 278
West Tisbury, MA 02575

RE: Applicant: Harrison Kisiel
 Project Location: 68 + 72 Christiantown Road and 174 Indian Hill Road
 Project Description: Proposed Land Management Activities
 DEP Wetlands File No.: 079-0464
 NHESP File No.: **24-17113**

Dear Commissioners and Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent in compliance with the rare wetland wildlife species provisions of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.59). The Division also received the MESA Project Review Checklist and supporting documentation for review pursuant to the MA Endangered Species Act Regulations (321 CMR 10.18).

The Division has determined that portions of this project, as currently proposed, will occur **within** the actual habitat of the following species:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Tipularia discolor</i>	Crane-fly Orchid	Plant	Endangered

State-listed species and their habitats are protected in accordance with the MESA and state-listed rare wetland wildlife habitats are protected pursuant to the rare wildlife provisions of the WPA.

The applicant proposes to construct two trails to connect two isolated pieces of conservation land in West Tisbury, MA (the Project). One trail is proposed within the Christiantown Woods Preserve South while another is proposed at Arrowhead Farm. Project activities at Arrowhead Farm do not occur within Estimated Habitat of rare wildlife or Priority Habitat as indicated in the current Massachusetts Natural Heritage Atlas. Therefore, the Arrowhead Farm

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portion of the project is not required to be reviewed for compliance with the rare wetland wildlife species provisions of the WPA or the MESA. Portions of the Project located within Christiantown Woods Preserve South are located within Priority Habitat and are the subject of this review.

Wetlands Protection Act (WPA)

According to the information in our database, the Division has determined that this Project, as currently proposed, **does not occur within Estimated Habitat of Rare Wildlife as indicated in the Massachusetts Natural Heritage Atlas** (15th Edition) because it is only mapped for state-listed plants. Therefore, the project is not subject to review for compliance with the rare **wildlife** species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37, 10.59 & 10.58(4)(b)) by the Division.

Notice: When filing for any new or amended Notice of Intent, Request for Determination of Applicability or associated renewal, extension, or amendment of the WPA Orders of Conditions the Applicant shall contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife. A renewal, extension or amendment of any Order of Conditions or other permit under the MA Wetland Protection Act does not renew, extend or amend this MESA authorization.

Massachusetts Endangered Species Act (MESA)

The MESA is administered by the Division, and prohibits the Take of state-listed species. The Take of state-listed species is defined as "in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat" of state-listed species (321 CMR 10.02).

Based on the information provided and the information contained in our database, the Division finds that Project activities at Christiantown Woods Preserve South, as currently proposed, **must be conditioned to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a)). To avoid a prohibited Take of state-listed species, the conditions attached to this letter must be met.**

Provided the attached conditions are fully implemented and there are no changes to the project plans, this project will not result in a Take of state-listed species. 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 project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, 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 Alexandra Echandi, Endangered Species Review Biologist, at alexandra.echandi@mass.gov.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a final horizontal stroke.

Jesse Leddick
Assistant Director

cc:

Attachment: List of Conditions

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List of Conditions

Applicant: Harrison Kisiel
Project Location: 68 + 72 Christiantown Road and 174 Indian Hill Road
Project Description: Proposed Land Management Activities
NHESP File No.: 24-17113
Heritage Hub Form ID: RC-83936
Approved Plan: Wetland Resource Map Christiantown Woods Preserve and Arrowhead Farm
Plan date: January 17, 2024

To avoid a prohibited Take of state-listed species, the following condition(s) must be met:

1. **Plant Surveys and Avoidance, Christiantown Woods Preserve - South:** Prior to the start of work, surveys for *Tipularia discolor* shall be conducted to delineate and avoid impacts to this plant species along the proposed trail corridor associated with the project.
 - a. Botanical field surveys must be conducted by a qualified botanist in appropriate habitats throughout all areas of proposed work and areas within 15 feet of the limit of work, including any access routes or staging areas, using methodologies consistent with the State-listed Species Habitat Assessment And Survey Guidelines: Plants (dated March 2016), see <https://www.mass.gov/doc/state-listed-species-habitat-assessment-and-survey-guidelines-plants/download>
 - b. The Division requires pre-approval of the botanist prior to conducting surveys. Please submit a copy of the botanist's resume/curriculum vita for review.
 - c. The approved botanist shall submit to the Division a time-table and survey protocol for written approval prior to initiation of field work. The survey protocol shall list the specific taxonomic characteristics for definitive identification as well as the characteristics of similar or easily confused species. Surveys should be successful at detecting the target plant in June.
 - d. If state-listed plants are encountered within the proposed work areas or within 20 feet of the limit of work, the Applicant must provide a detailed protection plan specifying measures to ensure the project does not result in a Take of state-listed plants to the Division for review and written approval. Please note the protection plan may necessitate additional or subsequent botanical survey work to implement required Take avoidance measures.



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MASSACHUSETTS PROJECT REVIEW CHECKLIST

Massachusetts Endangered Species Act M.G.L. c.131A and Regulations (321 CMR 10.00)

Project Details

*Project or Site Name: Christiantown Woods Preserve and Arrowhead Farm

*Street Address/Location: Christiantown Road and Indian Hill Road

*Town(s): West Tisbury

*Total Site Acreage: 48.04 *Acreage of Disturbance¹: 0.24

Parcel/lot number: 15 and 12 Assessors map/plat number: 13-1 and 28,29,31,32

Project Description (If necessary, a project/site description can also be provided as an attachment): _____

See attached project description

Registry of deeds information²

Registry: Dukes Certificate # (if registered land): 14926

Book: 465 1491 LC:81 Page Number: 186 748 LC:247

Do you have a previous NHESP Tracking number? (Yes / No) If yes, please provide: No

Will this project require a filing with the Conservation Commission and/or DEP pursuant to the Wetlands Protection Act (WPA)? (Yes / No)

Map

*Required: Enclose a map with the site location clearly marked and centered on the page.

Landowner Info

*Are you the Record Owner³ of the property? (Yes / No)

*If No, are you a representative of the Record Owner or do you have permission from the Record Owner to submit this request or filing?⁴ (Yes / No)

Martha's Vineyard Land Bank Commission

*Landowner Name 40 Meetinghouse Way Edgartown MA 02539

*Street Address/Location *City/Town *State *Zip Code

julie.russell@vineyardlandbank.com 508-627-7141

Email Telephone

Comments/Purpose of request⁵: _____

¹ Please disclose the full acreage of disturbance associated with the project, including areas outside of Priority Habitat.
² If your project contains more than one registered property, please attach a document listing the Registry information for each.
³ Record Owner means any person or entity holding a legal or equitable interest, right or title to real property, as reflected in a written instrument or recorded deed, or any person authorized in writing by such person.
⁴ If you are not the record owner, a statement or proof that you are authorized by the record owner must be attached.
⁵ Provide the authorization you have to submit this request if you are not the record owner and not a representative of the record owner.

Applicant Info

Julie Russell/Harrison Kisiel

Applicant Name (if different from Landowner) same		Organization (if applicable)	
Street Address/Location	City/Town	State	Zip Code
Email (if available)		Telephone	

Representative Info

Julie Russell/ Harrison Kisiel

Representative Name (if different from Landowner) same		Organization (if applicable)	
Street Address/Location	City/Town	State	Zip Code
Email (if available)		Telephone	

*Required Documents

- USGS map (1:24,000 or 1:25,000) with property boundary clearly outlined
- Project plans for entire site (including wetland Resource Areas, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work)
- Assessor's map or right-of-way plan of site
- Statement/proof that applicant is the Record Owner or that applicant is a person authorized in writing by the record owner to submit this filing
- Photographs representative of the site

Projects altering 10 or more acres, must also submit:

- A vegetation cover type map of the site
- Project plans showing Priority Habitat boundaries

The Division will notify you within 30 days if the materials submitted do not satisfy the filing requirements under 321 CMR 10.20. The Division may request additional information, such as, but not limited to, species and habitat surveys. A request for additional information would come within 30 days of receiving a complete filing.

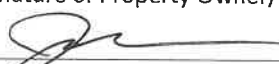
*Filing Fee

Fee schedule is available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>

*Total MESA Fee Enclosed: 300 Payable via check to **Comm. of MA - NHESP**

*Required Signatures

I hereby certify under the pains and penalties of perjury that the information contained is true and complete to the best of my knowledge.

Signature of Property Owner/Record Owner of Property 	Date <u>1-25-24</u>
Signature of Applicant (if different from Owner)	Date

Please mail this completed form, with the required document and fee to:
NHESP Regulatory Review | MassWildlife Field Headquarters | 1 Rabbit Hill Road | Westborough, MA 01581

Christiantown Woods Preserve and Arrowhead Farm Proposed Project in Priority and Estimated Habitat

The purpose of this project plan is to create a link between the existing trail loop on Christiantown Woods Preserve and trails on Arrowhead Farm by utilizing 2,042 linear feet of proposed new trail, 6,083 linear feet of existing trail, 2,642 linear feet of ancient ways, and 265 linear feet of proposed boardwalks crossing seasonal streams. Sixty percent, 10,728 ft² (0.24 acres), of the total proposed project is in priority and estimated habitats. This equates to 0.5% of the total property. The proposed project in priority habitat includes proposed trails (6,536 ft²), two raised boardwalks with wooden decking (232 ft²), and existing ancient way (3,960 ft²). Trails are proposed to be created at a width of 8 feet and corridor height of 10 ft and maintained with a walking tread that is 6 feet wide. Work within the habitat designated for rare species consists of 817 linear feet of new trail through a deciduous woodland with two stream crossings utilizing 58 linear feet of raised boardwalk with wooden decking and 495 linear feet of an existing ancient way.

The property is designated as priority habitat for a listed woodland plant and upland turtle. Further surveys of the preserve by land bank staff resulted in observations of two listed bat species and one moth species that rely on the woodland for a portion of their habitat needs. Surveys utilized to determine listed-species presence on the preserve included:

- acoustic monitors
 - two wildlife acoustic monitors (SM4 and SMU) set in the woodland between August 9-August 11, 2019 from 30 min before sunset and 30 min after sunrise (gain 12dB, sample rate 256 kHz, recording length 15 sec, min trig freq 16 kHz, trigger window 3 sec)
 - acoustic data processed using kaleidoscope 5.4.8
 - mist netting on August 20, 2019 using a triple high net (dusk – 1 am)
 - species surveyed and identified by Julie Russell
- black-light traps
 - one trap set in woodland using a photoelectric switch and ethyl alcohol kill jars
 - 5 trap nights between June 26 and September 3
 - traps set by Julie Russell
 - species identified by Mark Mello, Lloyd Center for the Environment
- Property surveys and iNaturalist observations for woodland turtles
 - Conducted property searches during spring and fall when turtles migrate woodland and agricultural fields in 2019-2023 by walking trails and transects through the woods
 - Surveys conducted by Julie Russell and Bryn Willingham
 - Searched iNaturalist for turtle sightings in the area
- Property surveys for listed woodland plants conducted in winter, spring and summer on the Preserve and Farm
 - Plant Survey Protocols

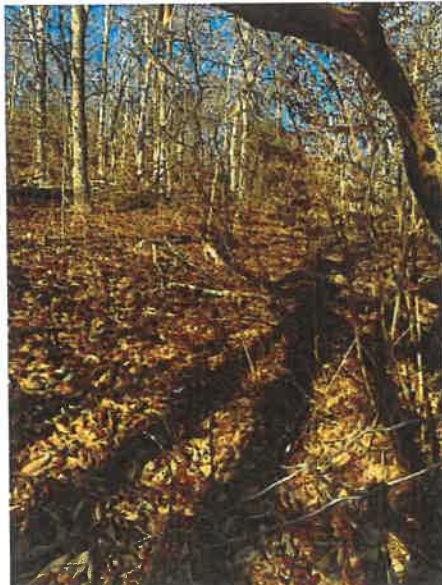
- Extensive whole habitat inventories of rare species were conducted in the woodland in 2019, 2020 and 2023 by Julie Russell, the land bank ecologist. Winter surveys for vegetative growth of woodland orchids conducted in winter of 2019-2023 with observations of the population made in 2019 and 2020
 - Potential trail options A and B were walked in winter of 2019, 2022 - 2024 to survey for vegetative growth of listed orchids and the whole parcel was surveyed in 2019.
 - Surveys were conducted on the same day as positive observations were made at other known population sites roughly between the months of January and March
 - Surveys were conducted by Julie Russell and Kristen Geagan, who have over 20 years of experience with this listed plant species.
 - Surveyors walked potential trail locations remaining 2 meters abreast and in 2019 walked the entire parcel 2 meters abreast.
 - One surveyor had a handheld GPS (Garmin GPS.Map 66st) to mark the track and rare plant species locations the other surveyor had a survey sheet to record GPS locations and corresponding ramet and genet numbers.
 - Listed orchid was identified by the singular winter vegetative leaf that has a dark green adaxial surface with raised deep purple pox-like spots and a deep purple abaxial surface.
 - Results of surveys
 - A singular winter leaf was observed in a location in the central parcel of the preserve in the vicinity of a stonewall that marks the northern property boundary. This observation was made in 2019 and again in 2020.
 - Subsequent surveys have not revealed the orchid and no other populations were observed during transect walks of the property in 2019.
 - The potential trail location A was re-sited in 2024 to proposed trail location B (shown on the attached map) following intense rains that revealed significant surface runoff in the area of proposed trail A.
 - Potential trail location B was surveyed, following the above methods, for the winter vegetative leaf of the orchid in January 2024. NO plants were observed.
- All observational data of listed species on the property were submitted to NHESP through heritage hub.



Actions proposed to mitigate impacts resulting from implantation of the proposed project and recreational use of the property include:

- Site proposed trails to avoid
 - any tree cutting to protect bat roosts and moth habitat
 - surface runoff during heavy rains
 - location of known listed-orchid population
 - and potential for erosion.
 - Create trails using hand tools and walk-behind brush cutters and maintain trails using walk-behind mowers and hand tools to avoid impacts to hibernating and mobile terrapin species.
 - Survey property for listed-orchid species annually and relocate trails, if necessary
 - Protect breeding and hibernating rare turtle habitat following NHESP mowing *Advisory Guidelines in Rare Turtle Habitat* (NHESP 2009)
 - Avoid flail mower heads with guide bars that ride along the ground
 - Avoid using heavy equipment in woodlands during the non-breeding season (Sept 16-May 14).
 - Promote healthy woodlands in rare moth and bat habitats
 - Protect woodlands from fire damage by creating trails 8 feet wide to act as ground breaks.
 - Protect any hibernacula discovered in the property with a no-cut buffer as dictated by NHESP-MA and FWS under Rule 81 FR 1900, 50 CFR 17 (Docket No. FWS-R5-ES-2011-0024
- 4500030113, <http://www.regulations.gov>)
- Utilize selective cutting to create small gaps in the woodland canopy in order to increase the complexity of the woodlands vertical structure
 - Avoid tree cutting during bat roosting season (May 15-August 15)
 - Avoid tree cutting using heavy equipment in winter to protect hibernating turtles (October – April).
 - Require dogs be leashed on the property, prohibit use of motorized vehicles including dirt bikes, electric bikes and all-terrain vehicles

Photo of Proposed trail location:



Christiantown Woods Preserve & Arrowhead Farm West Tisbury, MA



0 0.25 0.5 1 Miles

Note: Map prepared by the Martha's Vineyard Land Bank for planning purposes only. The land bank is not responsible for end-users interpretation of the map. Sources: 2021 ortho photograph and parcel data - MassGIS and MVC.
Projection: NAD_1983_StatePlane_Massachusetts_Mainland_FIPS_2001
File: CWP_AF_24k_2024.jpg Date: January 17, 2024.