



MASSWILDLIFE

# DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581  
p: (508) 389-6300 | f: (508) 389-7890  
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July 5, 2023

West Tisbury Conservation Commission  
PO Box 278  
West Tisbury MA 02575

Paul's Point Area Realty, LLC  
350 Park Ave, 4<sup>th</sup> Floor  
New York NY 10022

RE:      Applicant:                      Paul's Point Area Realty, LLC  
         Project Location:                271 & 257 John Cottle Road  
         Project Description:              Rock Revetment Reconstruction & Extension, Installation of a Coir Fiber  
            Roll Array and Nourishment  
         DEP Wetlands File No.:        079-0452  
         **NHESP Tracking No.:        23-7274**  
         **Heritage Hub Form ID:      RC-63351**

Dear Commissioners & 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 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 following species:

Scientific Name	Common Name	Taxonomic Group	MESA Status
<i>Charadrius melodus</i>	Piping Plover	Vertebrate Animal	Threatened

State-listed species and their habitats are protected in accordance with the MESA and rare wetland wildlife habitat is protected pursuant to rare species provisions of the WPA. The Piping Plover is federally protected as Threatened pursuant to the U.S. Endangered Species Act (ESA, 50 CFR 17.11).

Piping Plovers are small ground-nesting shorebirds that will establish a nest on sparsely vegetated, sandy areas of coastal beaches and dunes. Their nests are comprised of shallow depressions in the sand that may be lined with shell fragments or pebbles. Piping Plovers and their nests are particularly vulnerable to predators, unleashed pets, and human disturbance. Piping Plover chicks are not capable of flight for 25-30 days after hatching, and during this period they must feed themselves with parents in attendance, often ranging widely to forage during this period of rapid growth.

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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 Area 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. Under 321 CMR 10.18(1), the Division is required to notify the Record Owner of the property where the project is proposed within 30 days whether the submitted application contains the information required to be submitted to the Division pursuant to 321 CMR 10.20, including the applicable review fee. The Division also has the authority under 321 CMR 10.20 to require an applicant to provide additional information beyond the minimum information specified therein.

#### **MA WETLANDS PROTECTION ACT (WPA) & MA ENDANGERED SPECIES ACT (MESA)**

This letter is to inform you that the Division has reviewed the materials submitted with your combined application under the WPA (310 CMR 10.37) and MESA (321 CMR 10.18) regulations and has determined that additional information is required in order for the Division to complete its review pursuant thereto, as specified below:

1. **Landowner Authorization**: The Notice of Intent prepared by Sourati Engineering Group proposes work upon multiple properties. The Applicant must provide information sufficient to demonstrate that the Applicant is the Record Owner, as defined in 321 CMR 10.02, of each property upon which the project or activity is proposed. Sufficient information must include a written instrument or recorded deed demonstrating that the Applicant holds legal or equitable interest, right or title to said property, or written authorization from the Record Owner.
2. **Alternatives Analysis**: The evaluation of alternative methods for stabilization should include an "in-kind" reconstruction of the existing revetment without an extension to the length of the rock revetment. Note that the current CZM Shoreline Change Transect information indicates the eastern end of the property has a rate of erosion equal to "0 ft/yr", suggesting erosion has not been measurable. Additionally, an alternative that utilizes coir fiber rolls or sand-filled coir envelopes in place of the rock stabilization extension (including gabion baskets) should be provided. The alternatives must include methods for stabilization that reduce or do not result in additional degradation of state-listed species habitats.
3. **Stabilization System Design**: After an evaluation of alternative configurations or methods of stabilization the design of any coastal engineering structure should be evaluated for minimization, including but not limited to reducing the height or width, shorter length, modified location, landward shift, etc. The design of any coastal engineering structure should avoid and minimize temporary and permanent impacts to the exiting coastal resources (e.g., Coastal Bank, Coastal Dune, Coastal Beach, etc.).
4. **Sediment Nourishment/Replenishment Plan**: The nourishment or replenishment plan should include a calculation of the nourishment volume, the nourishment frequency, maintenance frequency, and anticipated source for nourishment. Additionally, please clarify the location and methods for future nourishment including access route and specify whether the replenishment plan includes methods to monitor beach elevation, erosion, and establish trigger points for additional nourishment events and/or specify an appropriate frequency for renourishment.

After receiving the above information, the Division will continue its review of the proposed project for compliance with the MESA and the rare species provisions of the WPA. The Division reserves the right to request additional information to understand the potential impacts of the proposed project on state-listed species and their habitats.

**No work or other activities related to your filing may be conducted anywhere on the project site until the Division completes its review.**

If you have any questions about this letter, please contact Amy Hoenig, Senior Endangered Species Review Biologist, at [Amy.Hoenig@mass.gov](mailto:Amy.Hoenig@mass.gov).

Sincerely,

A handwritten signature in black ink, reading "Everose Schlüter". The signature is written in a cursive style with a large, looping initial 'E'.

Everose Schlüter, Ph.D.  
Assistant Director

cc: George Sourati, Sourati Engineering Group  
MA DEP Southeast Region, Wetlands