



**MassWildlife**

Commonwealth of Massachusetts

# Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

September 10, 2009

Daniel Buttrick  
Fuss & O'Neill, Inc.  
78 Interstate Drive  
West Springfield MA 01089

RE: Project Location: Fyfreshire Pond Dam  
Town: BOLTON  
NHESP Tracking No.: 09-27078

To Whom It May Concern:

Thank you for contacting the Natural Heritage and Endangered Species Program ("NHESP") of the MA Division of Fisheries & Wildlife for information regarding state-listed rare species in the vicinity of the above referenced site. Based on the information provided, this project site, or a portion thereof, is located within Priority Habitat 1305 (PH 1305) and Estimated Habitat 485 (EH 485) as indicated in the *Massachusetts Natural Heritage Atlas* (13<sup>th</sup> Edition). Our database indicates that the following state-listed rare species have been found in the vicinity of the site:

<u>Scientific name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Emydoidea blandingii</i>	Blanding's Turtle	Reptile	Threatened

The species listed above is protected under the Massachusetts Endangered Species Act (MESA) (M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00). State-listed wildlife are also protected under the state's Wetlands Protection Act (WPA) (M.G.L. c. 131, s. 40) and its implementing regulations (310 CMR 10.00). Fact sheets for most state-listed rare species can be found on our website ([www.nhesp.org](http://www.nhesp.org)).

Please note that projects and activities located within Priority and/or Estimated Habitat must be reviewed by the NHESP for compliance with the state-listed rare species protection provisions of MESA (321 CMR 10.00) and/or the WPA (310 CMR 10.00).

## **Wetlands Protection Act (310 CMR 10.00)**

If the project site is within Estimated Habitat and a Notice of Intent (NOI) is required, then a copy of the NOI must be submitted to the NHESP so that it is received at the same time as the local conservation commission. If the NHESP determines that the proposed project will adversely affect the actual Resource Area habitat of state-protected wildlife, then the proposed project may not be permitted (310 CMR 10.37, 10.58(4)(b) & 10.59). In such a case, the project proponent may request a consultation with the NHESP to discuss potential project design modifications that would avoid adverse effects to rare wildlife habitat.

A streamlined joint MESA/WPA review process is now available. When filing a Notice of Intent (NOI), the applicant may now file concurrently under the MESA on the same NOI form and qualify for a 30-day

[www.masswildlife.org](http://www.masswildlife.org)

Division of Fisheries and Wildlife

Field Headquarters, North Drive, Westborough, MA 01581 (508) 389-6300 Fax (508) 389-7891

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streamlined joint review. For a copy of the revised NOI form, please visit the MA Department of Environmental Protection's website: <http://www.mass.gov/dep/water/approvals/wpaform3.doc>.

### **MA Endangered Species Act (M.G.L. c. 131A)**

If the proposed project is located within Priority Habitat and is not exempt from review (see 321 CMR 10.14), then project plans, a fee, and other required materials must be sent to NHESP Regulatory Review to determine whether a probable "take" under the MA Endangered Species Act would occur (321 CMR 10.18). Please note that all proposed and anticipated development must be disclosed, as MESA does not allow project segmentation (321 CMR 10.16). For a MESA filing checklist and additional information please see our website: [www.nhesp.org](http://www.nhesp.org) ("Regulatory Review" tab).

We recommend that rare species habitat concerns be addressed during the project design phase prior to submission of a formal MESA filing, as avoidance and minimization of impacts to rare species and their habitats is likely to expedite endangered species regulatory review.

Preliminarily, the NHESP feels that alternatives that remove the dam in its entirety or create a breach in the dam of adequate size such that it no longer impounds water are compatible with the Blanding's Turtle. Care would need to be taken to ensure that water levels are reduced slowly and water levels reductions occur only during the Blanding's Turtle's active season (ie, between 15 May and 1 October).

This evaluation is based on the most recent information available in the Natural Heritage database, which is constantly being expanded and updated through ongoing research and inventory, depending on the project time-line, additional rare species may be located in the area and need to be considered as part of the formal MESA review required above.

### **MA DFW Fisheries Comments**

North Brook is a coldwater fisheries resource. Fisheries surveys have yielded 14 species: American eel (*Anguilla rostrata*), blacknose dace (*Rhinichthys atratulus*), bluegill (*Lepomis macrochirus*), native brook trout (*Salvelinus fontinalis*), brown bullhead (*Ameiurus nebulosus*), reproducing brown trout (*Salmo trutta*), chain pickerel (*Esox niger*), fallfish (*Semotilus corporalis*), golden shiner (*Notemigonus crysoleucas*), largemouth bass (*Micropterus salmoides*), pumpkinseed (*Lepomis gibbosus*), redbfin pickerel (*Esox americanus*), white sucker (*Catostomus commersoni*) and yellow bullhead (*Ameiurus natalis*). Additionally, the brook is annually stocked in the spring with brook trout, brown trout, rainbow trout (*Oncorhynchus mykiss*) and/or tiger trout (*Salmo trutta x Salvelinus fontinalis*). Coldwater resources such as North Brook are relatively rare within the SUASCO (Sudbury, Assabet, Concord) drainage.

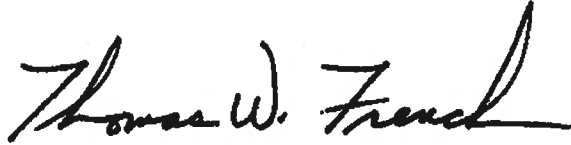
According to the findings of the Eastern Brook Trout Joint Venture (<http://www.brookie.org>), this species is undergoing a decline throughout its native range (Maine to Georgia) due to habitat degradation and Massachusetts is certainly no exception. Additionally, the Massachusetts Wildlife Action Plan includes brook trout as a Species in Greatest Need of Conservation (SGCN) due to widespread habitat loss. Brook trout are particularly sensitive to a wide range of habitat alterations, including but not limited to reductions in tree canopy (which causes increases in summer temperatures), siltation (which can lead to changes in reproductive success), run-off from impervious surfaces (again a temperature issue), and most importantly, stream fragmentation caused by dams and poor road culverts.

Due to the uniqueness of this resource, and the potential to improve habitat for coldwater species, we are in favor of the alternative to remove the dam in its entirety or creating a breach in the dam of adequate size such that it no longer impounds water. Should you chose this option, and a drawdown of the pond is required, to minimize potential impacts to fisheries resources, we recommend the proponent follow the guidelines outlined in the Drawdown section of the 2004 *Eutrophication and Aquatic Plant Management in*

*Massachusetts Final Generic Environmental Impact Report*, specifically: keep outflow during drawdown below a discharge equivalent of 4 cfs per square mile of watershed.

If you have any questions regarding this letter please contact Emily Holt, Endangered Species Review Assistant, at (508) 389-6361. If you have any questions about impacts to Fisheries, you can contact Richard Hartley at 508-389-6330.

Sincerely,

A handwritten signature in black ink that reads "Thomas W. French". The signature is fluid and cursive, with the first name "Thomas" and last name "French" clearly legible, and "W." as a small middle initial.

Thomas W. French, Ph.D.  
Assistant Director