



MASSWILDLIFE

## DIVISION OF FISHERIES & WILDLIFE

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**MASS.GOV/MASSWILDLIFE**

January 10, 2022

Eastward MBT, LLC, Trustee ECBT  
Eastward Companies  
155 Cromwell Road  
Chatham MA 02633

RE:      Applicant:                      Eastward Companies  
            Project Location:                0 Route 39/ Orleans Road Assessors Map 63, Parcel C3, Harwich  
            Project Description:            5-lot open space subdivision  
            **NHESP File No.:**                **21-40663**

Dear Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received the MESA Project Review Checklist, site plan titled "Open Space Preliminary Division Plan," (dated 10/20/2021), and other required materials for review pursuant to the Massachusetts Endangered Species Act (MESA) (MGL c.131A) and its implementing regulations (321 CMR 10.00).

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).

The Division has determined that this Project, as currently proposed, will occur **within** the actual habitat of the Eastern Box Turtle (*Terrapene carolina*), a species state-listed as Special Concern. This species and their habitats are protected in accordance with the MESA.

Based on the information provided and the information contained in our database, the Division finds that a portion of this project, as currently proposed, **must be conditioned** in order 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 following condition must be met:

- **Turtle Protection Measures:** Prior to the start of Work, the Applicant shall submit an Eastern Box Turtle Protection Plan to the Division for review and written approval. Said Turtle Protection plan shall detail procedures for protecting state-listed turtles during construction, and be prepared and implemented by a qualified biologist pre-approved by the Division. Please note that any searches for state-listed turtles associated with the Turtle Protection Plan must occur during the turtle active season (April 15 – October 15), unless otherwise approved by the Division. The Division is

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available for consultation on the development of the plan and for information regarding qualified biologists.

Provided the above-noted condition is 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 Lauren Glorioso, Endangered Species Review Biologist, at [lauren.glorioso@mass.gov](mailto:lauren.glorioso@mass.gov).

Sincerely,

A handwritten signature in black ink, reading "Everose Schlüter". The signature is written in a cursive, flowing style.

Everose Schlüter, Ph.D.  
Assistant Director

cc: Susan Ladue, Eastward Companies