DEPARTMENT OF THE INTERIOR
U. S. FISH & WILDLIFE SERVICE
Endangered Species Permit Office
5275 Leesburg Pike
MS:ES
Falls Church VA, 22041-3803

FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

MASSACHUSETTS DIVISION OF FISHERIES & WILDLIFE
1 RABBIT HILL ROAD
WESTBOROUGH, MA 01581
U.S.A.

2. AUTHORITY-STATUTES
16 USC 1533(d)
16 USC 703-712

REGULATIONS
50 CFR 17.32
50 CFR 21.23
50 CFR 21.27
50 CFR 13

3. NUMBER
TE01281C-0

4. RENEWABLE
☒ YES
☐ NO

5. MAY COPY
☒ YES
☐ NO

6. EFFECTIVE
07/08/2016

7. EXPIRES
07/07/2042

8. NAME AND TITLE OF PRINCIPAL OFFICER *(If #1 is a business)*
JACK BUCKLEY
DIRECTOR

9. TYPE OF PERMIT
NATIVE THREATENED SP. HABITAT CONSERVATION PLAN - T
WILDLIFE; MIGRATORY BIRDS

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Within a 300-yard zone (inland from the coastline) along the coastline of Massachusetts.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL, TRIBAL, OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

Also valid for use by employees and MADFW-approved certificate of inclusion (COI) plan participants.

D. This permit authorizes incidental take of piping plovers on non-federally managed beaches within a 300-yard zone (inland from the coastline) along the Massachusetts coastline (final HCP section 2.2.1) over a 25-year period. The permit authorizes a 26th year to ensure all mitigation requirements are fulfilled; however, no incidental take is authorized for the 26th year.

E. The amount of authorized take is up to 7 percent of the piping plover breeding pairs in Massachusetts each year (calculated according to the sliding scale provided in the final HCP [table 3-1]) during the implementation of covered activities authorized under MADFW-issued COIs to Plan participants as described in the HCP and as conditioned herein. The annual authorized incidental take will vary from year to year and must be confirmed annually by the USFWS. For any year in which the breeding plover population is below 500 pairs, no take authorizations for covered activities will be permitted the following year.

F. Acceptance of this permit serves as evidence that the permittee understands and agrees to abide by all of the terms of the permit and all sections of title 50 Code of Federal Regulations, parts 13 and 17, pertinent to issuance of incidental take permits. Section 11 of the Endangered Species Act of 1973, as amended (ESA), provides for civil and criminal penalties for failure to comply with permit conditions.

BLOCK 11 OF THIS PERMIT CONSISTS OF CONDITIONS A - Z (4 PAGES TOTAL)

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS
Annual report to be provided to the USFWS by February 15th annually (Final HCP, section 5.2.2.1)

Paul R. Phy

ISSUED BY	TITLE	DATE
	ASSISTANT REGIONAL DIRECTOR - ES	07/08/2016

Massachusetts Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, Massachusetts 01581

TE01281C-0

Block 11:

G. The authorization granted by this permit is subject to full implementation and compliance with the June 2016 Massachusetts Division of Fisheries & Wildlife (DFW) Habitat Conservation Plan for Piping Plover (Plan or HCP), including all appendices. This permit, the HCP, and any associated agreements are binding upon the permittee, any authorized officer, employee, contractor, agent, plan participant, or other covered entity conducting covered activities.

H. The general provisions contained in 50 CFR part 13, subpart D, and specific provisions of 50 CFR section 17.32 are hereby incorporated as conditions of this permit. The continued validity and the renewal of this permit are subject to the permittee's complete and timely compliance with all permit conditions.

I. This permit also constitutes a Special Purpose Permit under 50 CFR § 21.27 for the take of piping plovers (*Charadrius melodus*) in the amount and/or number and subject to the terms and conditions specified herein. Any such take will not be in violation of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. §§ 703-712).

J. Although incidental take coverage primarily would be extended to Plan participants, this permit also covers the permittee for incidental take while participating in covered activities (i.e., nest moving, take exposure on MADFW property). The permit does not extend take coverage to the permittee in addition to the HCP's annual statewide take exposure limit.

K. Unless the permit is amended, suspended, revoked, or terminated, the permit duration shall be 26 years.

L. Beginning in 2017, the permittee shall annually provide a letter to the USFWS prior to implementation of the covered activities in a given year that certifies that adequate funding has been requested from the state legislature to carry out the permittee's annual responsibilities for implementing the HCP, in accordance with the budget provided in the HCP.

M. Before the permittee provides authorizations to Plan participants (through issuance of either new COIs or annual authorizations under existing multi-year COIs), the permittee will annually provide confirmation to the USFWS that adequate funding for its HCP implementation obligations has been secured and dedicated within the MADFW operating budget for the year. The signed and issued permit will be considered effective

upon receipt by the USFWS of a memorandum from the permittee's Chief Financial Officer confirming the operating budget for the first year of ITP implementation (final HCP, section 5.4.2.3).

N. If the permittee's sample escrow agreement (final HCP, appendix D) changes substantially, the permittee will provide a draft of the new escrow agreement to the USFWS for review and written approval prior to finalization.

O. The permittee must (1) annually account for inflation and changes in hard costs, personnel costs, and workload allocations in its funding request to the State legislature; (2) to the extent necessary to meet HCP obligations, annually account for increased mitigation costs in the fees charged to Plan participants (including those holding multiyear COIs); and (3) manage (track, disburse, report, etc.) mitigation fees paid to escrow accounts for offsite predator management mitigation separately from any other fees paid to the same accounts (other MADFW funds for other programs, other species, or other types of mitigation required under the State's permit).

P. The permittee must limit take exposure for all covered activities to the minimum necessary to resolve site-specific impairment issues (i.e., conditions restricting recreation, beach operations, and OSV use).

Q. The permittee is responsible for ensuring that sufficient levels of selective predator management are implemented (on-site by Plan participants or off-site by the statewide predator management program) to offset the annual take exposure authorized for COI Plan participants.

R. The permittee shall inform all authorized Plan participants, officers, employees, contractors, and agents conducting covered activities of the terms of the HCP and this permit on an annual basis. All applicable contracts between the permittee and authorized agents, where relevant, shall require compliance with the HCP and this permit.

S. The permittee shall prepare and submit an annual mitigation plan for its statewide selective predator management program to the USFWS for review and comment by January 31, or other date approved by the USFWS, each year for the life of the permit.

T. Beginning in 2017, the permittee shall annually submit all on-site predator management mitigation work plans required of Plan participants for the USFWS review and comment by January 31, or by a date that allows at least 20 business days for review prior to COI authorization or annual approval.

U. The permittee and Plan participants shall conduct annual compliance and effectiveness monitoring as described in the HCP (section 4.4 of the HCP) throughout the permit term to ensure compliance with HCP measures and permit conditions, evaluate effectiveness of avoidance and minimization strategies, and track compliance with authorized levels of

take. The permittee's annual report, including all individual COI compliance and effectiveness monitoring reports, shall be submitted by February 15 of each year.

V. The permittee shall submit an annual summary of the mitigation implemented by the permittee and Plan participants to the USFWS by February 15 of each year. The summary may be a stand-alone document or included in the permittee's annual report. The annual summary must include information collected on these topics for each site at which covered activities occur and for each mitigation site: (1) number of pairs affected by the covered activity; (2) number of nests hatched; (3) number of nest attempts; (4) number of eggs hatched; (5) number of exclosures used and tied to nest IDs; (6) number of chicks fledged; (7) numbers and species of predators removed; (8) level of effort (hours or days) of predator control implemented; (9) type of predator control implemented; (10) cause of nest, egg, or chick loss (if known); and (11) other variables determined as needed and on a site-specific basis.

W. The permittee shall comply with the changed circumstances provisions of the HCP (section 5.3.2).

X. For the purposes of monitoring compliance, reporting, and administration of the terms and conditions of this permit, except where otherwise specified in the HCP, the contact office for the USFWS shall be: New England Field Office, 70 Commercial Street, Suite 300, Concord, NH 03301, telephone 603-223-2541. The permittee shall refer to permit number TE01281C-0 in all correspondence and reports concerning permit activities.

Y. The permittee shall notify the USFWS New England Field Office (see contact information above) and the USFWS Office of Law Enforcement, 70 Everett Avenue, Suite 315, Chelsea MA 02150, telephone 617-889-6616 within 24 hours of suspected identification of any injured or dead endangered/threatened species. All endangered/threatened species carcasses shall be transferred to the USFWS.

Z. The permittee and Plan participants shall allow USFWS employees, personnel, its agents, or contractors to enter the permit area at any reasonable time (with advanced notice and subject to the permittee's operations and safety restrictions) for the general purposes specified in 50 CFR 13.21(e)(2) or to carry out work, effectiveness monitoring, or compliance monitoring consistent with the HCP throughout the term of the permit. Nothing within this condition precludes or limits USFWS law enforcement-related actions pertaining to this permit or in accordance with applicable Federal and State laws and procedures.

END