



Commonwealth of Massachusetts

# Division of Fisheries & Wildlife

Jack Buckley, *Director*

June 29, 2016

Philippe Jordi, Island Housing Trust Corporation  
P.O. Box 779  
West Tisbury, MA 02575

RE:   Applicant:               Philippe Jordi, Island Housing Trust Corporation  
      Project Location:        State Road, Tisbury  
      Project Description:     Construction of Twenty (20) Rental Apartments  
      NHESP Tracking No.:   07-23790

Dear Applicant:

The Massachusetts Division of Fisheries & Wildlife's Natural Heritage & Endangered Species Program (the "Division") received the MESA Project Review Checklist, project plans entitled "Kuehn's Way Conservation Plan" (dated May 23, 2016), and other required materials for review pursuant to the Massachusetts Endangered Species Act (MGL c.131A) and its implementing regulations (321 CMR 10.00) (MESA).

The Division has determined that the proposed project is located within the mapped *Priority Habitat* of several state-listed Lepidoptera species, according to the Massachusetts Natural Heritage Atlas (13<sup>th</sup> Edition). These species and their habitats are protected pursuant to the MESA.

As proposed, the project includes the construction of twenty residential apartment dwellings and associated site work within a ±4.1-acre portion of the property, as shown on the project plans. The Applicant also proposes to protect the remaining ±10.75 acres of the property as open space and wildlife habitat, with 8.91 acres located north of Red Coat Hill Road already protected through a conservation restriction (Book 1386, Page 544, Dukes County Registry of Deeds) held by the Martha's Vineyard Land Bank.

Based on the information provided and the information contained in our database, the Division has determined that 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))**. The following conditions must be met:

1. Prior to the start of work, symbolic flagging or fencing shall be erected around the limit of work shown on the project plans and maintained throughout the construction period. No work may occur outside the limit of work shown on the project plans without prior review and approval by the Division.
2. Within thirty (30) days of completing construction, the Applicant shall file a brief written report to the Division confirming that all work is complete and providing representative post-construction photographs demonstrating compliance with the conditions herein.

[www.mass.gov](http://www.mass.gov)

Division of Fisheries and Wildlife

Field Headquarters, One Rabbit Hill Road, Westborough, MA 01581 (508) 389-6300 Fax (508) 389-7890

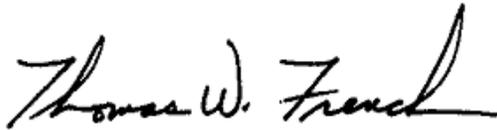
An Agency of the Department of Fish and Game

Provided the above-noted 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. 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 project 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.

The Division notes that any future projects or activities proposed on the property which are (a) located outside of the approval of the limit of work shown on the project plans, (b) not exempt from review pursuant to 321 CMR 10.14, and (c) located within mapped *Priority Habitat* as indicated in the Massachusetts Natural Heritage Atlas, will require review by the Division pursuant to MESA. Furthermore, 321 CMR 10.16 provides that projects shall not be segmented or phased to evade or defer the review requirements under MESA. If the Division determines, based on the considerations provided for in 321 CMR 10.16, that a future project or activity proposed on the property is part of a larger common project or scheme, it may evaluate the cumulative impacts of the existing and proposed segments of the common project when reviewing the future proposed project or activity pursuant to MESA.

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 Jesse Leddick, Endangered Species Review Biologist, at (508) 389-6386 or [jesse.leddick@state.ma.us](mailto:jesse.leddick@state.ma.us).

Sincerely,

A handwritten signature in black ink that reads "Thomas W. French". The signature is written in a cursive, flowing style.

Thomas W. French, Ph.D.  
Assistant Director