



## Agency of Natural Resources

1 National Life Dr., Davis 2, Montpelier, VT 05620-3901 • 802-828-1294

# Collection & Possession of Birds for Noncommercial Cultural & Ceremonial Purposes

Statutory Authority: 10 VSA § 5408 and 10 V.S.A. § 4152

### 1. Permittee

**Chief Don Stevens**

**Nulhegan Band of the Coosuk-Abenaki Nation**

(phys) 1366 May Farm Road, Barton, VT 05822

(mailing) 156 Bacon Drive, Shelburne, VT 05482

802-989-6717, chiefdonstevens@comcast.net

### 2. Permit Period

**Effective Date:** 1/1/2022

**Expiration Date:** 12/31/2026

**Authorization #:** EC-2022-02

**Amendment #** 0

### 3. Principal Officer: Chief Don Stevens

**4. Subpermittee(s):** Citizens of the Nulhegan Band of the Coosuk-Abenaki Nation, the Elnu Abenaki Band, the Koasek of the Koas Abenaki Nation, and the Missisquoi St. Francis-Sokoki Band of the Abenaki Nation with valid tribal identification cards.

**5. Authorized Species:** dead, salvaged birds, bird parts and feathers of all common (unlisted) bird species found in Vermont and of the following bird species listed as Threatened & Endangered in Vermont:

Black Tern (*Chlidonias niger*)

Upland Sandpiper (*Bartramia longicauda*)

Common Tern (*Sterna hirundo*)

Henslow's Sparrow (*Ammodramus henslowii*)

Grasshopper Sparrow (*Ammodramus savannarum*)

Eastern Meadowlark (*Sturnella magna*).

Spruce Grouse (*Falcipennis canadensis*)

Sedge Wren (*Cistothorus platensis*)

Whip-poor-will (*Caprimulgus vociferus*)

Common Nighthawk (*Chordeiles minor*)

Rusty Blackbird (*Euphagus carolinus*)

**6. Authorized Activity:** collection, possession and trade among Abenaki tribal members of salvaged individuals of the species listed in section 5 noncommercial cultural and ceremonial purposes.

**7. Location of Authorized Activity:** Statewide

### 8. Findings

- A.** The Permittee applied for a Threatened & Endangered Species Takings Permit under 10 V.S.A. § 5408 and to a Scientific Collection Permit under 10 V.S.A. § 4152 to authorize the collection, possession and trade of the species listed in section 5 for noncommercial cultural and ceremonial purposes.
- B.** The Vermont Fish and Wildlife Department recognizes the sovereign rights of the Abenaki people to practice their culture freely under this permit and will work in partnership to preserve that right. This partnership must also recognize the Fish and Wildlife Department's responsibility to conserve all wildlife species for the people of Vermont, to enforce wildlife management practices and address the illegal taking of wildlife within its borders. If illegal activity has been discovered in the collection of Vermont wildlife under this permit, the Fish and Wildlife Department may retain authority over said wildlife until any criminal situation has been resolved.
- C.** In December 2016 the Nulhegan Band of the Coosuk-Abenaki Nation, the Elnu Abenaki Band, and the Koasek Abenaki Band, entered a settlement agreement with the U.S. Department of Interior (Abenaki-DOI Settlement) allowing members of these bands with valid tribal identification to "possess, carry, use, wear, give, loan or exchange among other Indians, without compensation, [dead individuals of] all federally protected birds, as well as their parts or feathers."
- D.** On November 8<sup>th</sup>, 2018 the Abenaki Nation of Missisquoi, St. Francis-Sokoki Band entered into this same Abenaki-DOI Settlement agreement with the U.S. Department of Interior.
- E.** The proposed activity has been determined to be de minimis in nature.
- F.** The Permittee is a chief of the Nulhegan Band of the Coosuk-Abenaki Nation.
- G.** The Endangered Species Committee has approved, as a class, de minimis takings such as that proposed here, and reviews a summary of such permits annually.

## **9. Statutory Determination**

- A. [10 V.S.A. § 5408\(a\)](#) provides: "[A]fter obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary may prescribe by rule any act otherwise prohibited by this chapter if done...for noncommercial cultural or ceremonial purposes."
- B. [V.S.A. App. § 10.4.2](#) pursuant to [10 V.S.A. § 5408\(a\)](#) provides for the collection and possession of a dead salvage bird or parts thereof, including bird feathers, for noncommercial cultural or ceremonial purposes, "provided that the permit issued complies with federal requirements regarding collection and possession of migratory birds and the bird was legally acquired, transferred from an individual who acquired it legally, or found dead and the permittee had no part in the intentional killing of the bird."
- C. The Secretary has determined that the Permittee meets the requirement and has proposed activity consistent with the purposes set out under [10 V.S.A. § 5408\(a\)\(5\)](#) and [V.S.A. App. § 10.4.2](#). The Permittee is granted approval for authorized taking for noncommercial cultural or ceremonial purposes. This permit is subject to the conditions provided in sections 10-12.
- D. [10 V.S.A. § 4152\(c\)](#) provides: "The Fish & Wildlife Department Commissioner may issue a permit to a person that allows the holder to collect and possess a dead salvage bird or bird feathers for noncommercial cultural or ceremonial purposes provided that the bird was legally acquired, transferred from an individual who acquired it legally, or found dead, and the permittee had no part in the intentional killing of the bird. A permit issued under this section shall comply with federal requirements regarding collection and possession of migratory birds."
- E. The Commissioner has determined that the Permittee meets the requirement and has proposed activity consistent with the purposes set out under [10 V.S.A. § 4152](#). The Permittee is granted approval for scientific collection for cultural or ceremonial purposes. This permit is subject to the conditions provided in sections 10-12.

## **10. General Conditions & Authorizations**

- A. This permit is issued in accordance with 10 V.S.A. ch. 123. 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. This permit is expressly conditioned upon compliance with all applicable federal and state laws, regulations, permits and the Settlement Agreement between the U.S. Department of Interior and the Nulhegan Band of the Coosuk-Abenaki Nation, the Elnu Abenaki Band, and the Koasek Abenaki Band, effective December 20, 2016; and with the Missisquoi, St. Francis-Sokoki Band of the Abenaki Nation on November 8<sup>th</sup>, 2018.
- C. This permit does not confer upon the Permittee the authority to collect wildlife without the acquiring necessary landowner permission.
- D. By acceptance of this permit, the Permittee and its heirs, successors and assigns agree to provide the Agency of Natural Resources with unrestricted access, at reasonable times to the animals and/or animal parts collected and/or possessed under this permit, collection and monitoring records, and access to the premises as necessary to ensure compliance with this permit.
- E. The permit is valid for use by the named Permittee and subpermittees(s) only and may be revoked by the Secretary at any time for cause, or violations of any terms or conditions of this permit or relevant state law.
- F. The Permittee and subpermittees shall keep copies of this permit and shall make the permit available upon request within a reasonable amount of time.

## 11. Specific Conditions & Authorizations

- A. The Permittee and subpermittees are authorized to collect and possess dead, salvage birds and bird feathers of species listed in section 5 for noncommercial cultural or ceremonial purposes provided that the birds and parts are legally acquired, transferred from individuals who acquired them legally, or found dead, and the Permittee or subpermittees had no part in the intentional killing of the birds.
- B. The Permittee and subpermittees are authorized to use, wear, give, loan (without compensation), or exchange among Native Americans (Abenaki and federally recognized tribes), dead salvage birds or bird feathers of species listed in section 5 for noncommercial cultural or ceremonial purposes if the birds were legally acquired, transferred from individuals who acquired them legally, or found dead, and the Permittee or subpermittees had no part in the intentional killing of the birds.
- C. Per the Abenaki-DOI Settlement the Permittee and subpermittees may provide (without compensation, except for labor) feathers or parts to other Abenaki citizens or craftspersons who are Abenaki citizens or members of federally recognized tribes to be fashioned into objects for use in Abenaki ceremonial or cultural activities.
- D. The Permittee and subpermittees are *not* authorized to disturb, capture or collect live birds, eggs or active nests of any species listed in section 5.
- E. The Permittee and subpermittees are *not* authorized to kill or harm or take any bird species listed in section 5, or to buy, sell, barter, or trade such birds (live or dead), or their parts, or feathers.
- F. The Fish & Wildlife Department and Agency of Natural Resources recognize that if or when this permit expires or is terminated, such expiration or termination will not affect the validity of ongoing possession of items already legally collected under this permit by the Permittee or subpermittees.

## 12. Reporting Requirements

- A. **The Permittee and subpermittees are encouraged to report bird collection, from the wild only, within 72 hours to help the state better manage bird populations.** Birds and parts provided by the Agency of Natural Resources or acquired through trade or exchange among other Native Americans, or through the national Bald Eagle Repository Reports do not need to be reported.

Reports can be submitted online via the bird collection reporting form <https://anrweb.vt.gov/FWD/FW/BirdCollectionReporting.aspx>, by email to [ANR.EndangeredPermit@vermont.gov](mailto:ANR.EndangeredPermit@vermont.gov) or to the Permit Specialist via US mail (see address at top of page 1). Please specify the species name(s), number of animals or parts collected, date of collection, collection location, and the presumed reason for death (e.g., collision with structure, roadkill, unknown). If possible include photos of the bird or bird parts with the report. Please freeze and store the carcass of any Threatened or Endangered bird until it can be examined by a VFWD employee.

- B. The Permittee shall accommodate requests by Agency of Natural Resources staff for additional information from collection activities.

Issued by:  Date: 12/13/2021  
Christopher Herrick, Commissioner  
Fish & Wildlife Department

### Right to Appeal to Environmental Court

Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available at [www.vermontjudiciary.org](http://www.vermontjudiciary.org). The address for the Environmental Court is 2418 Airport Road, Suite 1, Barre, VT 05641 (Tel. # 802-828-1660).