MassDEP
Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection
Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

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DEC 10 2020

Tisbury Marine Terminal, LLC
c/o Foth Infrastructure & Environment, LLC
Attn: Susan Nilson, P.E.
15 Creek Road
Marion, MA 02738

RE: PUBLIC COMMENTS ON WATERWAYS LICENSE TRANSMITTAL X286505
Tisbury Marine Terminal, LLC, Vineyard Haven Harbor, 190 Beach Road, Tisbury

Dear Ms. Nilson,

Enclosed, please find copies of letter(s) received during the public comment period for the above-referenced application.

Please take this opportunity to respond to the issues raised in the comment letter(s), in any manner that you deem appropriate, within sixty (60) days of the date of this letter or contact me directly if additional time is needed.

Upon submittal of your response, please provide adequate proof to the Department that you have sent a copy of said response to all persons who have submitted comments.

Sincerely,

Brendan C. Mullaney
Environmental Analyst
Wetlands and Waterways Program

cc: Tisbury Marine Terminal, LLC
190 Beach Road
Tisbury, MA 02568

cc: Martha's Vineyard Commission
Attn: Daniel Doyle, MVC Special Projects Planner
P.O. Box 1447
Oak Bluffs, MA 02557

ecc: Division of Marine Fisheries
DMF.EnvReview-South@mass.gov

Office of Coastal Zone Management
Robert.Boeri@mass.gov

The Commonwealth of Massachusetts
Division of Marine Fisheries

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CHARLES D. BAKER, Governor
KARYN E. POLITO, Lt. Governor
KATHLEEN A. THEOHARIDES, Secretary
RONALD S. AMIDON, Commissioner
DANIEL J. MCKIERNAN, Director

October 28, 2020

Mr. Brendan Mullaney, Environmental Engineer
DEP, Waterways Regulation program
20 Riverside Drive
Lakeville, MA 02347

Re: X286505

Dear Mr. Mullaney:

The Division of Marine Fisheries (MA DMF) has reviewed the combined Waterways License Application and Water Quality Certification Application by Tisbury Marine Terminal, LLC for the Tisbury Marine Terminal (TMT) Project located on 190 Beach Road in the Town of Tisbury. The project site is located on a barrier beach separating Lagoon Pond from Vineyard Haven Harbor. The project would essentially extend the existing bulkheaded shoreline in Vineyard Haven Harbor approximately an additional 200 feet to the north and east, with a combination of filling, dredging, bulkheading, and installation of a pile-supported deck over an existing pocket beach. Project work as proposed includes infrastructure and dredging components in the "southern" and "northern" sections of the project footprint and is described in more detail as follows.

Within the southern section, an existing solid-filled pier would be replaced with a new steel sheet pile structure that would be realigned to make it perpendicular to the shoreline. The new solid-fill pier would be 110 feet long by 30 feet wide. An existing barge ramp would be replaced with two new ramps that would each measure 40 feet long by 20 feet wide. The TMT bulkhead would include new steel sheet piles installed along the current 209 linear feet of bulkhead and a new bulkhead extension resulting in a 314 linear foot structure.

In the northern section, a 30,577 square foot pile-supported deck would be constructed over the existing pocket beach located at the northeast corner of the project footprint. A new 183 linear foot steel sheetpile bulkhead would be installed along the seaward edge of the proposed deck. This bulkhead would extend from the seafloor to the base of the proposed new pile-supported deck with the exception of an approximate 80 foot section of "environmental windows" where the bulkhead would be cut off approximately at grade to allow for water circulation. An additional 283 linear foot bulkhead would be constructed along the shoreline adjacent to the deck. Three new vessel berths would be created seaward of the new pile-

supported deck and bulkhead. A 12 foot by 142 floating dock would be installed to provide access to docked vessels. A 202 linear foot steel sheet pile wave attenuator with a six foot wide catwalk would be installed at the northeast end of the berths to provide protection from northeast winds and exposure.

Dredging is proposed across both southern and northern sections of the project footprint and includes improvement dredging. Proposed dredging for the operations and maintenance expansion would increase water depths from approximately -6 to -8 feet at MLW to -17.8 feet at MLW with a 1-foot overdredge to a final depth of approximately -18.8 feet. Proposed dredging would remove approximately 14,759 cubic yards of sediment from a 42,609 square foot area. Additional dredging at the existing TMT Packer Facility would achieve a depth of -12.8 feet at MLW with a one foot overdredge to a final depth of approximately -13.8 feet MLW by removing approximately 5,923 cubic yards of sediment from a 28,141 square foot area. The fate of the dredge material is not determined on the plan as necessary sediment analyses have not yet been performed to determine suitability for use as nourishment material. If it is determined to be beach compatible, the sediment will be used to perform beach nourishment along Beach Road Beach. An 800 square foot (40 feet by 20 feet) pile-supported public lookout structure is also proposed east of the new pile-supported deck. An approximate 9,511 square foot marine support building is also proposed in the upland portion of the project footprint. Existing marine fisheries resources and habitat and potential project impacts to those resources are outlined in the following paragraphs.

The footprint for the in-water component of the project is within and adjacent to mapped shellfish habitat for quahog (*Mercenaria mercenaria*), bay scallop (*Argopecten irradians*), and blue mussel (*Mytilus edulis*) (Figure 1). Waters within and adjacent to the project site have habitat characteristics suitable for these species. Land containing shellfish is deemed significant to the interest of the Wetlands Protection Act (310 CMR 10.34) and the protection of marine fisheries.

Nearshore waters off the entire shoreline along Beach Road to the east of the project site have been mapped by the Massachusetts Department of Environmental Protection (MassDEP) as an eelgrass (*Zostera marina*) meadow (Figure 2). The Environmental Notification Form supplement includes results from an in-water survey performed by Foth in June 2019, which did not identify any eelgrass within the project footprint itself. Eelgrass beds provide one of the most productive habitats for numerous marine species (Jackson et al. 2001; Heck et al. 2008) and are designated "special aquatic sites" under the Federal Clean Water Act (Subpart E of 40 CFR Part 230, 404(b)(1) guidelines) and Massachusetts Water Quality Certification (314 CMR 9.00). In some parts of the state, eelgrass is ephemeral and can return after a year or more of being absent in an area.

This area is also in the juvenile cod (*Gadus morhua*) Habitat Area of Potential Concern (HAPC) designated by the New England Fishery Management Council (2017). The HAPC includes all waters shallower than 20 meters that are rocky or vegetated habitats, with sandy areas for feeding next to these habitats (NEFMC 2017). This site can be considered an excellent example

of such habitats due to the combination of beach, rocky shoreline, and nearby eelgrass meadows.

Vineyard Haven Harbor provides spawning habitat for winter flounder (*Pseudopleuronectes americanus*) (Evans et al. 2011). Winter flounder spawn from January through May, laying clumps of eggs directly on the substrate. These demersal eggs hatch approximately fifteen to twenty days later. The Atlantic States Marine Fisheries Commission has designated winter flounder spawning habitat as a HAPC.

MA DMF offers the following comments for your consideration:

- As proposed, the wave attenuator would extend to the seafloor. A design with a three foot gap above the seafloor was considered in the alternatives analysis. A tracer simulation did not identify any "measurable" improvement in water circulation. The gap was estimated to increase wave energy under the attenuator and also increase the required dredging area relative to a design that extended to the seafloor. While a gap design may not have a large effect on circulation, it would benefit fisheries habitat by allowing organisms, particularly benthic fauna, to freely migrate between the project area and the adjacent habitat to the east of the project. A more detailed analysis that considers different gap heights would be beneficial as it may identify a height that could minimize wave energy and the need for additional dredging while still allowing for benthic habitat connectivity. If a continuous gap is not feasible, intermittent gaps similar to the proposed "environmental windows" for the bulkhead may provide some corridors for passage.
- The project footprint has been shifted seaward relative to earlier designs presented to state and federal agencies prior to the Notice of Intent submission. However, the current design still results in intertidal dredging and alterations to nearshore habitat through bulkhead installations. Given such impacts, the need to perform work within the proposed footprint needs to be better detailed or alternative footprints should be considered. If feasible, extending the proposed vessel berth areas further seaward could potentially avoid the need for intertidal dredging.
- Consideration of design alternatives that would enhance marine habitat is also recommended. For cases where hard structures are necessary, alternative designs that promote colonization by native species (e.g., substrate for blue mussels) while still meeting project objectives would aid in limiting negative impacts to marine habitat.
- For the proposed bulkhead landward of the new berthing spaces, the proposed "environmental windows" will increase water circulation and potentially light penetration at the edge of the deck. For the intertidal portion that is designed to be elevated above the substrate to limit infill of the dredged area, alternatives should be considered that still provide spacing between the deck and the bulkhead surface to allow additional light penetration under the deck.
- The proponent proposes to essentially move the pocket beach to along the shoreline to the north and east of the project footprint. Ultimately, this sediment may return to form

a pocket beach along the northeast edge of the pile-supported deck. Longer term maintenance of the shoreline should be addressed.

- How this project will affect the historic eelgrass meadow adjacent to the project area cannot be estimated. The worst-case scenario would be that sediment alterations or wave refraction from the bulkheads could prevent eelgrass from repopulating the area.
- Proposed in-water, silt-producing work should be conducted outside of the time of year (TOY) restriction period of **January 15 to May 31**. This TOY period is designed to protect the spawning period, larval settlement and juvenile development of winter flounder (Evans et al. 2011).
- A downgrade of the Shellfish Growing Area classification from Approved to Conditionally Approved or Prohibited may be necessary following proposed project activities. Since the existing pier (South Wharf) is used to demarcate the V 10.1 Shellfish Growing Area (Vineyard Haven Inner Harbor) (Figure 3), the need for a classification change and possible boundary change should be discussed with MA DMF.
- If permitted as proposed, mitigation will likely be required at the state and federal levels of the permitting process for much of the in-water project footprint due to habitat alteration resulting from the installation of various hard structures (pilings, wave attenuator, bulkheads) as well as intertidal and sub-tidal improvement dredging.

Questions regarding this review may be directed to eileen.feeney@mass.gov.

Sincerely,

Eileen M. Feeney

Eileen M. Feeney
Fisheries Habitat Specialist

cc: Tisbury Conservation Commission
Susan Nilson, Foth Infrastructure & Environment, LLC
Danielle Ewart, Shellfish Constable
David Wong, MA DEP
Tom Shields, Simone Wright, MA DMF

EF

References

Evans NT, Ford KH, Chase BC, Sheppard J (2011) Recommended Time of Year Restrictions (TOYs) for Coastal Alteration Projects to Protect Marine Fisheries Resources in Massachusetts. Massachusetts Division of Marine Fisheries Technical Report, TR-47.

Heck KL Jr, Carruthers TJB, Duarte CM, et al (2008) Trophic transfers from seagrass meadows subsidize diverse marine and terrestrial consumers. Ecosystems 11:1198–1210

Jackson EL, Rowden AA, Attrill MJ, et al (2001) The importance of seagrass beds as a habitat for fishery species. Oceanogr Mar Biol Annu Rev 39:269–303.

New England Fisheries Management Council (2017) Omnibus Essential Fish Habitat Amendment 2. https://www.habitat.noaa.gov/protection/efh/efhmapper/oa2_efh_hapc.pdf

Figure 1. Mapped shellfish habitat in the project footprint and adjacent waters of Vineyard Haven Harbor and Lagoon Pond.

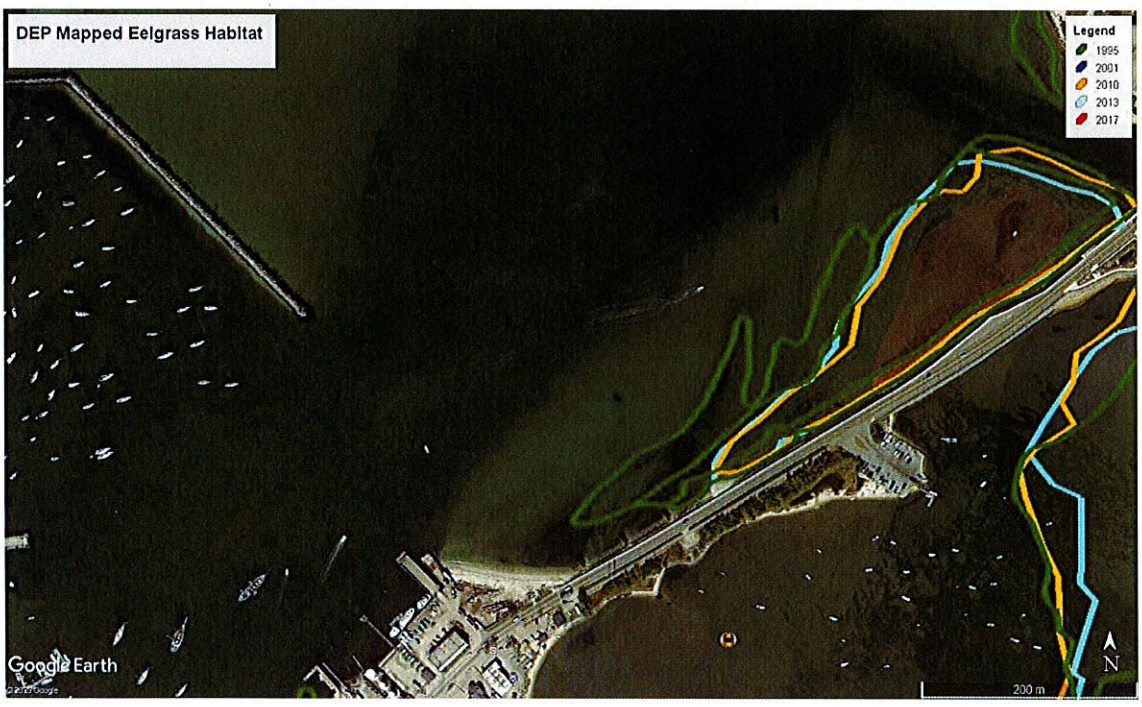

Figure 2. Mapped eelgrass (*Zostera marina*) meadows in the project footprint and adjacent waters of Vineyard Haven Harbor and Lagoon Pond based on MassDEP aerial surveys.

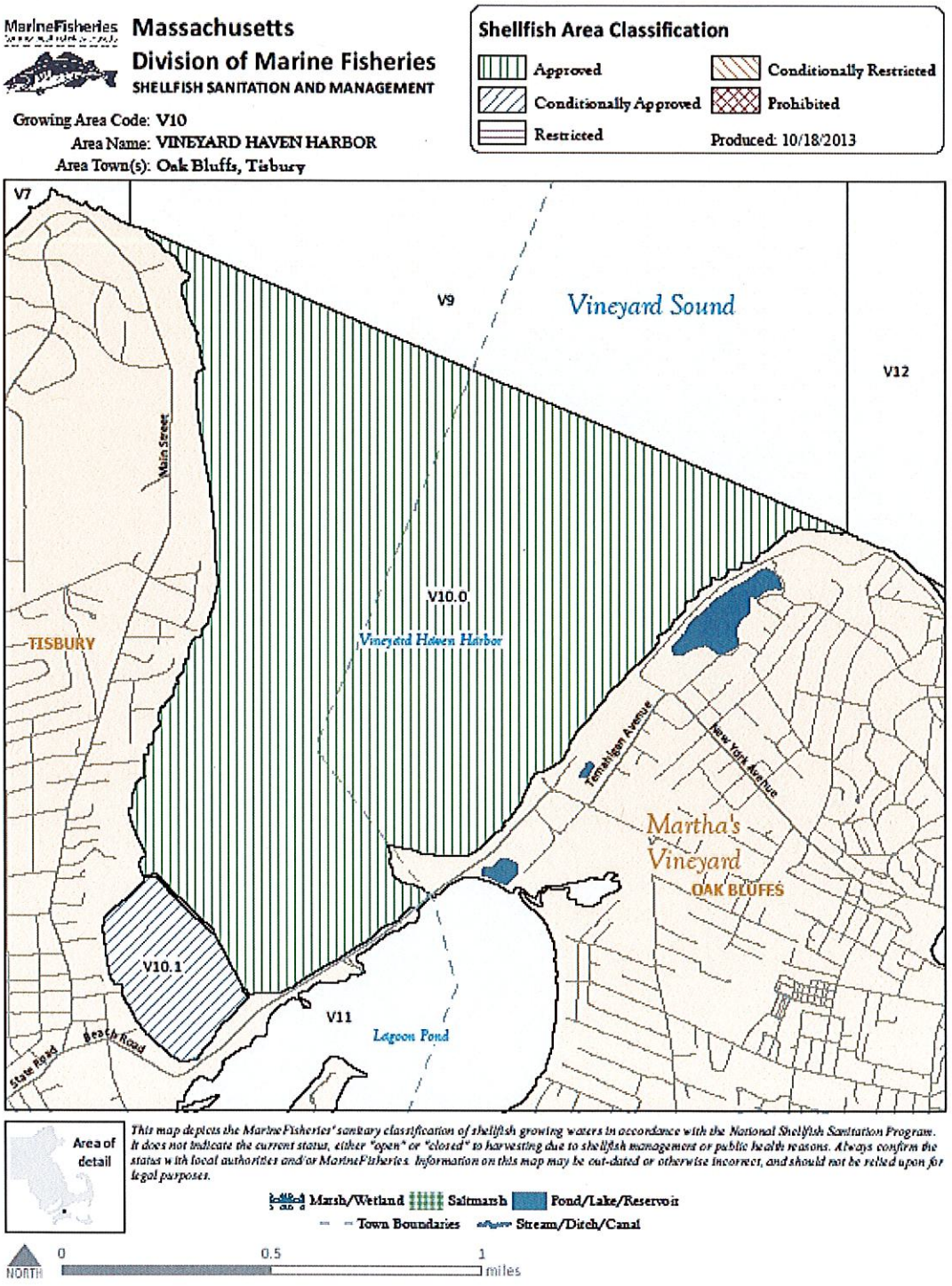

Figure 3. MA DMF Shellfish Area Classification map for Vineyard Haven Harbor (V10.0) and Vineyard Haven Inner Harbor (V10.1).

MARTHA'S VINEYARD COMMISSION

November 11, 2020

Department of Environmental Protection
Southeast Regional Office
Attn: Brendan Mullaney
20 Riverside Drive
Lakeville, MA 02347

Re: **Chapter 91 and 401 WQC Transmittal No. X286505 (Tisbury Marine Terminal)**

Dear Mr. Mullaney,

Given the information we've been provided to date, the Martha's Vineyard Commission's has concerns as they relate to the water quality component of the Tisbury Marine Terminal project proposal. They are reflected in the question below:

- What was the extent of the Activity & Use Limitation (AUL) surrounding area for the 2013 Mass DEP inspection? Please provide a map.
- Upon dredging, what sort of separation techniques will be employed to minimize suspended silt and, consequently, the impacts of silt-clay disturbance and the contaminants they possess?
- Upon completion of separation, what is the proposed fate of these contaminants?

We look forward to receiving additional information related to the items above.

Sincerely,

Daniel Doyle, MVC Special Projects Planner

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TURNER@MVCOMMISSION.ORG – WWW.MVCOMMISSION.ORG

November 4, 2020

Department of Environmental Protection
Southeast Regional Office
Attn: Brendan Mullaney
20 Riverside Drive
Lakeville, MA 02347

Re: **Chapter 91 and 401 WQC Transmittal No. X286505 (Tisbury Marine Terminal)**

Dear Mr. Mullaney,

Given the information we've been provided to date, the Martha's Vineyard Commission's has concerns as they relate to the dredging component of the Tisbury Marine Terminal project proposal. They are reflected in the questions below:

- Please submit documentation for the proposed fate of the dredge spoils, once the Sampling Analysis Plan is complete.
- Will the Applicant be seeking a Conditional Letter of Map Revision by FEMA owing to the change in hydrologic characteristic associated with the dredging?
- How were the dredge area dimensions determined?
- Is there off-site mitigation proposed for disturbance to the Shellfish Suitability Area as a result of dredging? To this end, is additional sampling to corroborate MassGIS data Shellfish Suitability Area spatial data being considered? If not, please include the methodology for determining these zones within Tisbury.
- Are there DMF Time of Year restrictions that need to be accounted for in the proposed dredging timeline? If so, please indicate.
- For Scenario 5, the preferred alternative, in the *Sediment Transport Analysis for Packer & Tisbury Marine Terminal Facility*, will the reduction in tidal circulation within the basin owing to the wave fence erected along the sea floor, increase deposition of sand converging from other approaches? Similarly, is accretion expected on the beach landward of the bulkhead given beach sediment from this south side of the bulkhead will be prevented from migrating into the dredged basin?
- For Scenario 4, in the *Sediment Transport Analysis for Packer & Tisbury Marine Terminal Facility* what was the estimated improvement in tidal circulation in absolute terms (not relative to the full height wave fence)?

We look forward to receiving additional information related to the items above.

Sincerely,

Daniel Doyle, MVC Special Projects Planner

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