



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

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October 11, 2019

Kathleen A. Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attention: MEPA Office
Erin Flaherty, EEA No. 16094
100 Cambridge Street
Boston, Massachusetts 02114

Project Name: License and Maintain Existing Fill, Building, Proposed Pile Anchored Barges, Reconfiguration Zone and Gangway
Proponent: Cooke Island, LLC
Location: 23 Popes Island, New Bedford
Project Description: License and Maintain Existing Fill, Building, Proposed Pile Anchored Barges, Reconfiguration Zone and Gangway
Document Reviewed: Environmental Notification Form
EEA File Number: 16094
NHESP Tracking No.: 19-38922

Dear Secretary Theoharides,

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the Division) has reviewed the *Environmental Notification Form* (ENF) for the proposed project at 23 Popes Island, New Bedford, MA and would like to offer the following comments.

As indicated in the *Massachusetts Natural Heritage Atlas* (14th Edition), a portion of the proposed project site has been mapped as *Priority and Estimated Habitat* for state-listed tern species which are protected pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its implementing regulations (MESA, 321 CMR 10.00) as well as the rare species provisions of the Massachusetts Wetlands Protection Act (WPA, 310 CMR 10.37).

Projects that will occur within *Priority and Estimated Habitat* for state-listed species, which are not otherwise exempt from MESA review pursuant to 321 CMR 10.14, require a direct filing with the Division for compliance with the Massachusetts Endangered Species Act (MESA 321 CMR 10.00). According to the information contained within the ENF, the pile anchored barges and reconfiguration zone are proposed within *Priority Habitat*. Based on the information contained within the ENF and in advance of a formal filing pursuant to the MESA, the Division anticipates that any state-listed species concerns can be addressed during the MESA review process.

The Division will not render a final decision until the MEPA review process and associated public and agency comment period is completed, and until all required MESA filing materials are submitted by the proponent to the Division. As our MESA review is not complete, no alteration to the soil, surface, or vegetation and no work associated with the proposed project shall occur on the property until the

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Division has made a final determination or until all work has been demonstrated to occur outside of *Priority and Estimated Habitat*.

If you have any questions about this letter, please contact Amy Hoenig, Endangered Species Review Biologist, at (508) 389-6364 or Amy.Hoenig@mass.gov. We appreciate the opportunity to comment on this project.

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 Nilson, Foth-CLE Engineering Group
Cooke Island, LLC
New Bedford Board of Selectmen
New Bedford Conservation Commission
New Bedford Planning Department
DEP Southeast Regional Office, MEPA