



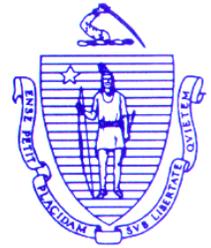
David E. Pierce
Acting Director

Commonwealth of Massachusetts

Division of Marine Fisheries

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September 3, 2015

Mr. Kevin Kotelly
Acting Chief, Permits and Enforcement Branch
Regulatory Division
US Army Corps of Engineers
696 Virginia Road
Concord, MA 01742
ATTN: Joshua Helms

Re: NAE-2015-01483

Dear Mr. Kotelly:

The Division of Marine Fisheries (*MarineFisheries*) has reviewed the GP PCN Determination of Eligibility for Bridge Real Estate Investors LLC, 12 Fish Island, to construct a pile supported pier and to re-face approximately 50' of existing bulkhead with new steel sheet material on the Acushnet River in the City of New Bedford, with respect to potential impacts to marine fisheries resources and habitat.

The project site lies within mapped shellfish habitat for quahog (*Mercenaria mercenaria*). Subtidal waters within 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.

MarineFisheries has identified New Bedford Harbor as winter flounder (*Pseudopleuronectes americanus*) spawning habitat. Winter flounder enter the area and 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 "Habitat Areas of Particular Concern" (HAPC). A recent stock assessment has determined that Southern New England/Mid Atlantic winter flounder populations are at only 16% of the recommended recovery level, and even though it is not currently experiencing overfishing, it is overfished (Northeast Fisheries Science Center, 2011). Because of the winter flounder stock status, every effort should be made to protect winter flounder and their spawning habitat.

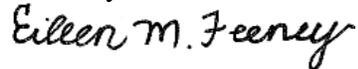
Additionally, the Acushnet River has been identified by *MarineFisheries* as diadromous fish passage, migration and spawning habitat for alewife (*Alosa pseudoharengus*), blueback (*Alosa aestivalis*), rainbow smelt (*Osmerus mordax*), and white perch (*Morone americanus*). As a result of drastic declines in the alewife populations, *MarineFisheries* has placed a ban on the harvest of river herring in the Commonwealth. Every measure should be taken to protect alewife spawning, nursery and migration habitat.

Marine Fisheries offers the following comments for your consideration:

- A Time-of-Year (TOY) restriction is recommended on all in-water work from **January 15 through June 30** to protect diadromous passage, migration, and spawning habitat (Evans et al. 2011).
- Given the loss of shellfish habitat associated with the installation of support structures, this project should be considered assessable for ILF mitigation.

Questions regarding this review may be directed to Eileen Feeney in our New Bedford office at (508) 990-2860 ext. 117.

Sincerely,



Eileen M. Feeney
Fisheries Habitat Specialist

cc: New Bedford Conservation Commission
David Davignon, N. Douglas Schneider & Associates, Inc.
Susan Tuxbury, NMFS
Ken Chin, DEP
Robert Boeri, CZM
Ed Reiner, EPA
Neil Churchill, DMF
Tom Shields, DMF
John Sheppard, DMF
Christian Petitpas, DMF

EF/cp

References

Northeast Fisheries Science Center. 2011. 52nd Northeast Regional Stock Assessment Workshop (52nd SAW) Assessment Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 11-17; 962 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at <http://www.nefsc.noaa.gov/nefsc/publications/>

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.