

ATTACHMENT M4

NATIONAL MARINE FISHERIES CONSULTATION

National Marine Fisheries Service
Consultations and Correspondence

AECOM has prepared a Biological Assessment (BA) which was submitted to USACE and DEEP on May 28, 2020. In response to a request from NMFS, the BA is being updated to include additional information. The revised BA will be submitted to under separate cover.

Plans and text previously provided to this agency have been superseded by the current Project design. See Attachment P4 for initial NMFS consultation documentation, including older SPII design plans (alignment with Installation Vessel dockage at the South Berth) included in the 03/15/2019 MCA letter.

Minutes

Meeting name State Pier Regulatory Agency Conference Call	Subject Essential Fish Habitat and Project Mitigation	Attendees J. Salvatore, CPA D. Ray, USACE A. Verkade, NMFS Z. Jylkka, NMFS S. Gephard, CT DEEP M. Grzywinski, CT DEEP M. Garbolski, AECOM J. Berg ,AECOM T. O'Sullivan, AECOM A. Sullivan, AECOM R. Laukaitis, MCA J. Singer, M&N	Circulation list All attendees
Meeting Date April 4, 2019	Time 10:00 AM – 10:45 AM		
Location WebEx/Conference Call	Project name State Pier Infrastructure Improvements		
AECOM project number 60579714	Prepared by M. Garbolski T. O'Sullivan		

Ref Item

Introduction

1. Call Agenda/Objectives and Project introduction and overview were given by M. Garbolski. Connecticut Port Authority (CPA) desires to redevelop the State Pier Facility to enhance cargo-handling capabilities, especially in support of offshore wind industry. Project will include creating a level, open upland area and filling between the State and CVRR Piers to create a heavy-lift zone.
2. M. Garbolski opened call to Project related questions from agency staff. None were voiced.
3. J. Berg opened discussion on aquatic surveys done to date, proposed additional aquatic surveys, Essential Fish Habitats (EFH) and Project mitigation.

Aquatic Surveys

4. J. Berg summarized the aquatic surveys done to date by CR Environmental, Inc. (CR) and documented in CR's report entitled CT State Pier Geophysical Survey, New London, CT, dated November 2018, presented on the WebEx screen.
5. J. Berg suggested additional surveys to be performed include video-transects to survey for eel grass and megafauna, as well as sediment grab samples to evaluate shellfish and meiofauna/infauna.
6. J. Berg inquired as to what other surveys would be requested. A. Verkade replied that the proposed surveys are acceptable. Z. Jylkka responded by noting that the U.S. Navy is currently tracking acoustically tagged Atlantic and Shortnose Sturgeon and that CPA should obtain that data for the Project. S. Gephard said that he will provide CT DEEP contact for this data. See Agency Action items below.
7. A. Verkade asked if the Project has considered mitigation measures for impacts to fisheries/habitat.

Discussion transitioned to compensatory mitigation for Project impacts.

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Project Mitigation

8. M. Garbolski provided a general overview of potential mitigation measures including living shoreline, acceptance of dredge sediment from other facilities in the area for use as fill between existing State and CVRR piers, and In-Lieu Fee (ILF).
9. S. Gephard mentions concern regarding ILF because it goes to a general fund that could be used for other items, such as grassland bird habitat, and may not end up being used to mitigate fishery related issues specific to the Project. He further emphasized the need for Project mitigation to address fishery impacts and would need to be "customized". D. Ray and A. Verkade agreed. D. Ray mentioned fish ladders and removal of derelict structures are options. S. Gephard mentioned CT DEEP would provide a list of candidate fishery mitigation projects and once a figure/dollar amount for mitigation is identified and agreed to, those funds would be deposited in an escrow account. Once the funds are in the account, CPA would take no further action on the mitigation project and they would be implemented by others. M. Grzywinski indicated he will provide a model escrow agreement. See Agency Action Items below.
10. S. Gephard said he will provide a tentative list of viable fishery projects to be considered for implementation with Project funds. (See Agency Action Items below). S. Gephard further indicated that Electric Boat was provided with a list of four main fishery projects, supplemented with a list of contingency fishery projects.
11. A. Verkade said that mitigation should not be limited only to fish passage projects but that some aspects of the overall mitigation package could consist of habitat enhancement, possibly in areas ancillary to the Project area. M. Grzywinski reiterated Living Shoreline as part of the mitigation package. S. Gephard indicated he would endorse that approach.
12. A. Verkade recommended that specific upland areas to be examined for potential mitigation measures are the public boat launch and parking and the entire DEEP-controlled parcel generally. M. Grzywinski stated that he would reach out to State Parks to initiate discussion of this parcel.
13. A. Verkade indicated NMFS would like to see more than just a Living Shoreline component for habitat enhancement and specifically mentioned winter flounder spawning and nursery habitat as an example of an additional measure NMFS would support. She also noted that any areas 16.4 feet deep or shallower would be considered spawning habitat for winter flounder and dredging those areas to a greater depth or filling them would be considered a negative impact.
14. M. Garbolski asked Agency staff about how the mitigation burden is calculated. M. Grzywinski replied that CT DEEP used a figure of \$3.13/square foot for the current Electric Boat (EB) project. D. Ray said the USACE uses a figure of \$10.80/square foot in this area. A. Verkade said that the impact was figured on a 1:1 open water basis.
15. Both M. Grzywinski and D. Ray indicated that they had worked together on EB to calculate the mitigation burden and would do the same for this Project, with M. Grzywinski taking the lead role.

This concluded the mitigation discussion. Mike Garbolski opened call to general questions/comments from the agencies.

Ref **Item**

General Comments

Z. Jylkka mentioned when ESA Section 7 Consultations must be initiated by the USACE, on USACE letterhead and with appropriate signatures.

A. Verkade mentioned the EFH coordination between NMFS and USACE would follow the same pathway.

Action Items for Agency Staff:

S. Gephard to check to see who within CT DEEP would be the correct contact to obtain the acoustic data for Atlantic and Shortnose Sturgeon. Possibly Tom Savoy?

M. Grzywinski to provide model escrow agreement for mitigation funding.

S. Gephard indicates he will provide a tentative list of viable fishery projects to be considered for implementation with Project funds

From: [Zachary Jylkka - NOAA Federal](#)
To: [Rima Laukaitis](#)
Cc: [Garbolski, Michael](#); [Joseph.Salvatore@ct.gov](#); [Ray, Diane M.CTV.USARMY.CENAF.\(US\)](#)
Subject: Re: State Pier New London
Date: Monday, March 18, 2019 3:25:03 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Rima,

To confirm, at this stage, you are looking for me to review the information you've provided (related to ESA species presence) and respond with any general concerns we would have about the project? Your letter does state that, "We are contacting you to initiate informal consultation under Section 7(a)(2) of the Endangered Species Act (ESA)." Only the Federal Action Agency (or their designated non-federal representative) can request initiation of Section 7 consultation. In this case, that letter would need to come from USACE. We also have a number of requirements for the content of such a letter before we can move forward with initiation.

Best,
Zach

On Fri, Mar 15, 2019 at 11:48 AM Rima Laukaitis <rlauk@martinezcouch.com> wrote:

Dear Mr. Jylkka,

The Connecticut Port Authority (CPA) is proposing facility infrastructure repairs and improvements that would better position the State Pier Facility to capture emerging East Coast shipping opportunities and accommodate some of the logistics in cargo flow in Connecticut. We are contacting you to initiate informal consultation under Section 7(a)(2) of the Endangered Species Act (ESA).

A joint permit application is currently in preparation encompassing a Structures, Dredging & Fill permit and 401 Water Quality Certification permit for submission to the Connecticut Department of Energy & Environmental Protection (CT DEEP) Land and Water Resources Division (LWRD), and a 404 (Clean Water Act) and Section 10 (Rivers and Harbors Act) permit application for submission to the U.S. Army Corps of Engineers (USACE) for impacts to coastal waters.

Please review the attached project information, provide your response relative to the species list provided herein, indicate any concerns regarding potential impacts and let us know if you have any questions or require additional information to facilitate your review.

Thank you,

Rima Laukaitis, P.E.

Project Manager

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For additional ESA Section 7 information and Critical Habitat guidance, please see:
www.greateratlantic.fisheries.noaa.gov/protected/section7