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March 20, 2013

Mr. David Lederer
Remedial Project Manager
Office of Site Remediation and Restoration
EPA Region 1, Suite 100, OSRR 7-04
5 Post Office Square
Boston, Massachusetts 02176

Re: Request for the addition of blasting as a rock removal methodology to EPA's Final Determination for the New Bedford Harbor South Terminal Project (aka, New Bedford Marine Commerce Terminal Project)

Dear Mr. Lederer:

The Commonwealth of Massachusetts would like to thank you for your continued engagement in the permitting of the New Bedford Marine Commerce Terminal, a unique project that will not only remove approximately 250,000 cubic yards of contaminated sediment from New Bedford Harbor, but also serve to develop a first of its kind multi-purpose marine terminal, a primary purpose of which will be to provide critical infrastructure to serve offshore renewable energy facilities and accommodate international shipping at the new facility. The Commonwealth of Massachusetts has had numerous discussions with the EPA and federal and state resource agencies over the past eight months concerning the topic of blasting as a method for the removal of rock that may be encountered during dredge activities on the project. The purpose of this correspondence is to formally request that blasting be included as a rock removal methodology in EPA's Final Determination for the above noted project.

As outlined within EPA's Final Determination, EPA did not include blasting in the approved set of methodologies for rock removal on the South Terminal project, but indicated they would consider a future request provided that the Commonwealth provide additional analysis and modeling of potential resource impacts. Since early November of 2012, when consultation on the issue of blasting was suspended, the Commonwealth has acquired three pieces of new information that are relevant to the discussion of the impacts of blasting on potential resources in the Harbor: 1) in mid-November of 2012, the Commonwealth provided EPA with the results of an acoustic modeling study that was

completed for New Bedford Harbor that included modeling of blasting; 2) the Commonwealth provided the Army Corps of Engineers (“ACOE”) and EPA a seismic analysis of potential impacts to the Hurricane Barrier due to blasting; and provided EPA with a letter from USACE granting its approval to conduct blasting in association with this project, and 3) the Commonwealth has recently engaged a construction contractor for the project which has allowed the Commonwealth to obtain more clarity on the construction schedule and rock removal methodology for the project.

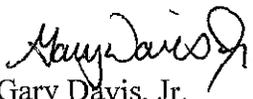
During a March 6, 2013 regulatory coordination meeting with EPA and NMFS, the Commonwealth discussed its desire to re-engage this consultation for the purpose of including blasting as a rock removal methodology within the Final Determination. The Commonwealth welcomes the opportunity to discuss directly with the stakeholders the new information noted above, as well as engineering controls that will be put in place to minimize potential impacts from blasting.

The Commonwealth requests EPA’s recognition that at least three months of consultation on the subject of blasting has already transpired between all of the stakeholder parties concerning the resource impacts of the project. This consultation to date has resulted in the commissioning of the acoustic modeling report noted above, as well as the Commonwealth’s commitment (within Section 02900 – BLASTING, part 3.9.2, “Environmental Impact of Blasting” of its specifications dated December 5, 2012) to specific mitigation and engineering controls that will minimize any impacts from blasting on the resources present or potentially present in New Bedford Harbor.

The Commonwealth understands the importance of direct consultation between the stakeholder parties, and commits to engaging in discussions with the stakeholders in order to clarify details and address concerns prior to EPA’s issuance of an amendment to its Final Determination concerning blasting. As stated above, the Commonwealth believes that the merits of this proposed approach will result in a consultation that can be held on an expedited timeframe.

As previously and publicly stated, the Commonwealth appreciates EPA’s efforts to advance this important project to date, and reiterates its commitment to work with the EPA and NMFS to bring closure to the remaining issues associated with the Final Determination for this project.

Very truly yours,


Gary Davis, Jr.
General Counsel