

From: [Bill White](#)
To: [Dierker, Carl](#)
Cc: gary.davis@state.ma.us; cmyers@apexcos.com; jborkland@apexcos.com; [Eric Hines \(ehines@lemessurier.com\)](mailto:Eric.Hines@lemessurier.com); [Williams, Ann](#); [Catri, Cindy](#); [Lederer, Dave](#); [Marsh, Michael](#); [Colarusso, Phil](#); [Christopher Morris](#); [Christen Anton](#); [Alicia Barton](#)
Subject: RE: Letter on Blasting and CAD Cell 3
Date: Thursday, June 27, 2013 4:47:06 PM
Attachments: [image001.jpg](#)
[Request for Addition of Blasting to Final Determination Final .pdf](#)
[GZA Assessment of Impacts to Hurricane Barrier.pdf](#)
[MassCEC to EPA on Oysters.doc](#)
[South Terminal Mitigation Oysters 27Jun13.pdf](#)
[MassCEC Letter to EPA on Rivers End Park.pdf](#)

Carl,

We are following up on your request for additional information and have an important request for clarification.

First, we would like to request clarification from EPA on the language of its June 13, 2013 letter on blasting. Specifically, Condition #7 which states the following: “The blasting program must minimize the total weight of explosive charges per shot and the number of shots for the project, and in no case shall the total weight of explosive charges per shot exceed 50 lbs.” We believe that EPA intended to state “in no case shall the allowable charge weight per delay exceed 50 lbs.” Two examples that clarify the history of our intent include:

- Insert 1 from MassCEC’s May 20, 2013 letter to EPA shows Figures 20 and 21 from the Acoustical Modeling Report prepared in November of 2012 (attachment 1). Both of those figures list “charge size” and do not mention “total weight of explosive charges per shot”.
- Additionally, the report prepared by GZA Geoenvironmental, Inc (dated December 2012) that assessed impacts to the New Bedford Hurricane Barrier cited “Allowable Charge Weights Per Delay” and not “total weight of explosive charges per shot” (attachment 2).

As written, EPA’s statement, which essentially limits the total amount of explosive per shot rather than per delay, makes blasting not technically feasible. We note that the acoustical modeling and seismic modeling data generated to date and submitted to EPA supported a maximum charge per delay size of 50 pounds as sufficiently protective. We hope that this is, indeed, a misunderstanding and that EPA can clarify as soon as possible.

Second, we are forwarding letters from MassCEC and Massachusetts Division of Marine Fisheries on the question of oysters. In summary, DMF states that “All shellfish mitigation efforts in New Bedford waters should be directed towards quahogs, the shellfish species that thrives in these waters” (attachment 3 & 4).

Third, we are forwarding a letter on the estimated costs associated with the Rivers End Performance Bond requirements (attachment 5).

And fourth, please see the memo below from MassDEP that states that project modifications meet substantive requirements of all state ARARs. (This memo was

forwarded to EPA staff earlier by Chet Myers.)

Many thanks for your continued partnership.

Best,

Bill

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From: Weinberg, Philip (DEP) [<mailto:philip.weinberg@state.ma.us>]
Sent: Friday, May 31, 2013 12:15 PM
To: Davis, Gary (DCR); Chet Myers
Cc: Ericson, Benjamin (DEP); Craffey, Paul (DEP)
Subject: South Terminal-Proposed Project Modification and DEP ARARs

After consultation with the BWSC project manager and wetlands technical staff, I have concluded that the applicable ARARs set out in the memoranda included in Appendix D of the Determination do not need to be revised or supplemented to address the proposed project modifications that would allow blasting to facilitate constructing the sheet pile bulkhead, widening by 50' and deepening to 200' the navigation channels and not deploying silt curtains in areas that might result in navigational interference in the federal channel. The potential impact from those activities are already adequately addressed through the standards described in these memoranda.

If you need this determination memorialized in a different format, let me know.

Phil Weinberg
Regional Director
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From: Dierker, Carl [mailto:Dierker.Carl@epa.gov]
Sent: Thursday, June 13, 2013 5:26 PM
To: Bill White
Cc: gary.davis@state.ma.us; cmyers@apexcos.com; jborkland@apexcos.com; Eric Hines (ehines@lemessurier.com); Williams, Ann; Catri, Cindy; Lederer, Dave; Marsh, Michael; Colarusso, Phil
Subject: Letter on Blasting and CAD Cell 3

Bill – Attached is the letter we committed to send you regarding the Commonwealth’s request that EPA modify its final determination for the South Terminal Project to allow blasting for rock removal and to allow a change in the design of CAD cell #3.

We also wanted to take this opportunity to remind you that we are still looking for the following information:

- * A written statement as to whether the Commonwealth intends to include oyster seeding as part of the shellfish mitigation plan, and, if not, an explanation for that decision. We need this information in order to proceed with EFH consultation with NMFS on the modification requests. We must complete the consultation process before we can issue a modification decision.
- * With respect to River’s End Park, information related to the mitigation construction cost estimate; information about the agent you have chosen (CLE) for the construction and performance bonds, including background and expertise so that we can approve the choice; and feedback on our comments on the Draft Site Protection Instrument, Draft Conservation Restriction, and Draft Performance and Construction Bonds. We request this information as soon as possible as we are concerned that the opportunity to do work at Rivers End Park this season is slipping away.
- * The Commonwealth’s determination that the additional dredging, CAD cell design changes, blasting, and elimination of the silt curtains at the winter flounder mitigation area either meet the substantive requirements of all state ARARs or, alternatively, identification and analysis of any new ARARs and a description of how these requested modifications meet those new ARARs. This, too, is necessary before we can issue a modification decision.

In addition, we are in ongoing discussions with Apex to finalize the SAP and other workplans and look forward to that effort being completed expeditiously. Please feel free to call me with any questions about this letter or the above information requests.

Thanks,
Carl

Carl F. Dierker
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For further information, please contact the EPA Call Center at (866) 411-4EPA (4372). The TDD number is (866) 489-4900.

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