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From: "Kimmell, Ken (EEA)" <Ken.Kimmell@state.ma.us>

To: Matt Schweisberg/R1/USEPA/US@EPA; "Christopher.Boelke@noaa.gov" <Christopher.Boelke@noaa.gov>

Copy To: Ira Leighton/R1/USEPA/US@EPA; Carl Dierker/R1/USEPA/US@EPA; Stephen Perkins/R1/USEPA/US@EPA; Cynthia Catri/R1/USEPA/US@EPA; Ann Williams/R1/USEPA/US@EPA; Phil Colarusso/R1/USEPA/US@EPA; James Owens/R1/USEPA/US@EPA

Delivered Date: 11/04/2010 09:52 PM EDT

Subject: RE: NBH SER South Terminal - winter flounder

Matt et al:

You are correct that we do not have data that rules out winter flounder spawning habitat in the inner harbor based on water temperature or salinity. I believe that Kathryn Ford sent a summary of the data to Phil C a few days ago. However, we will have a significantly revised and improved mitigation plan to present tomorrow. For the record, I don't think anyone has established that the south terminal actually provides important habitat for the winter flounder.

As to the second point, I believe that NMFS has misread the COP submitted by Cape Wind, and its decision not to participate in the meeting tomorrow is unwarranted. I understand that Cape Wind made the following statement in the COP:

"CWA has been kept aware of proposal by the Commonwealth of Massachusetts and the City of New Bedford to construct a Multi-Purpose Marine Commerce Terminal that could, among other purposes, serve as a staging area for construction of offshore wind projects, including the Cape Wind project. At this time, however, it is unclear whether such Terminal would be both developed and available on a timeline that would meet the construction schedule for CWA set forth in this COP. Therefore, this COP is submitted with Quonset Point serving as the project staging area, and BOEMRE should review this filing on that basis. In the event, however, that the New Bedford Terminal does become available and CWA proposes its utilization for all or a substantial portion of the project's staging requirements, CWA would seek an appropriate and corresponding COP modification at that time."

This statement is consistent with what I have told EPA in the past, and is not a reason for changing course. In addition, we have spent a great deal of time this week preparing improvements to our mitigation plan in accordance with NMFS's request, and we believe that it is vital that

NMFS hear our presentation and that we receive feedback from NMFS. I request that NMFS attend tomorrow's meeting as planned to discuss our revised mitigation plan. If necessary, we can sort out the implications of Cape Wind's statements to BOEMRE next week.

Kenneth L. Kimmell
General Counsel,
Executive Office of Energy and Environmental Affairs
100 Cambridge Street
Boston, MA 02114
(617) 626-1137 (phone)
(617) 626-1095 (facsimile)

-----Original Message-----

From: Schweisberg.Matt@epamail.epa.gov
[mailto:Schweisberg.Matt@epamail.epa.gov]
Sent: Thursday, November 04, 2010 3:54 PM
To: Kimmell, Ken (ENV)
Cc: Leighton.Ira@epamail.epa.gov; Dierker.Carl@epamail.epa.gov;
Perkins.Stephen@epamail.epa.gov; Catri.Cynthia@epamail.epa.gov;
Williams.Ann@epamail.epa.gov; colarusso.phil@epamail.epa.gov;
Owens.James@epamail.epa.gov
Subject: NBH SER South Terminal - winter flounder

Ken,

I have not received the information from DMF on water temperatures and salinity in the inner harbor that Paul mentioned at our last meeting. So, for the purposes of tomorrow's meeting, we'll still be at the same point as before -- that the habitat is not seriously degraded and provides important spawning habitat for winter flounder. As mentioned previously, we're open to any additional information that may support the state's assertions in the documents submitted to date with respect to habitat values.

On a related note, the National Marine Fisheries Service informed me yesterday, and asked that I inform you, that it no longer will participate in the review of the South Terminal project. In light of the recent filing by Cape Wind of a Construction and Operation Plan with BOEMRE that documents in writing that Quonset, RI, will remain the staging facility for the wind farm, NMFS believes that the context for reviewing the South Terminal project has changed substantially and requires revisiting, among other things, the alternatives analysis, which was principally predicated on the requirements of the Cape Wind project.

See you tomorrow afternoon. We'll be in the same conference room on the first floor.

Matt Schweisberg