

New Bedford South Terminal
Draft Mitigation Plan NMFS Informal Comments
10.16.12

Page 5 - Shellfish mitigation bullet – states final number will be proportionate to final impact/ final dredge area. Why would this area change? Hasn't the dredge footprint been determined?

Intertidal Habitat “assumed to have same functions and values” – any proposal to test this? If not, what assumption is this statement based on? References should be provided.

Page 6 – Statement reads “*Subtidal Area Impacts That Are Not Anticipated to Impact Winter Flounder Spawning*” – This should be “permanently” impact, as dredging these areas with no TOY window will likely impact some winter flounder spawning in the area. Again under last paragraph, page 6 – temporary dredging impacts - should include the word “permanent impact” rather than no impacts to winter flounder spawning.

Page 7 – Clarify last sentence of first paragraph. What document will include the plans for silt curtain/bubble curtain and monitoring as means to mitigate for temporary dredging impacts? This should be documented somewhere, possibly in this section.

Page 7 -Under saltmarsh and freshwater wetland states “assume” to have same or better functions and values. Provide references. Will this be monitored?

Page 7 -Shellfish mitigation – again refer to mitigation depending on the extent of area to be impacted. Has that not already been established? This section also states design will be in accordance with Commonwealth letter to EPA regarding NMFS comments. However, there is no specific design in the letter. The specifics of the design should be determined in consultation with the resource agencies.

Page 18 – Are there project plans for the salt marsh mitigation?

Page 20 - states mitigation will make the winter flounder area -16 feet MLLW or *deeper*. Should this read *shallower*? Optimal spawning habitat for winter flounder is less than 5 meters, so why would the mitigation area be deeper?

Page 22 – Shellfish – again refers to potential changes in numbers if portion so of project is not completed. What portions are being proposed for removal? This should be clarified. The percentage of oyster restoration should reflect findings of the shellfish survey, thus reflecting compensation for what is being impacted. The document keeps referring to “oyster reef” but the plan should consist of oyster “mitigation” (which would involve creating a reef and “planting” the reef with oyster spat). Also, recycled cultch would be a better use than rock. Details should be worked out with the resource agencies.

Again the document read“(or the proportional equivalent, based on the number of shellfish impacted)” – This statement needs to be explained. I thought the numbers were established through the survey. Why would we expect these numbers to change?

Pages 24-25 – Clarify the mitigation bank. What proportion of impacts will be mitigated vs credited toward a mitigation bank?

Page 36-37 – Clarify this section- *Temporary Dredging Impacts (Not Anticipated to Impact Winter Flounder Spawning)* -Dredging within the winter flounder window will likely impact winter flounder spawning. The proposal to use the silt/bubble curtain may minimize these impacts, but will not eliminate them completely. This may be a good section to describe the proposal to work within the TOY restriction.

Page 37 – “*Although not listed in the USACE guidance manual, the 2.5 ratio of mitigation to impact is a generally accepted ratio for seeding to replace impacted shellfish, typically recommended by MassDMF and accepted by NMFS.*” The phrase “accepted by NMFS” is misleading. We do not have specific mitigation ratio guidance on shellfish.

Page 37-38 -Last sentence of the paragraph below states the design of the oyster reef will be done according to the October 4th letter. Earlier in the document it states that the design will be determined in coordination with MassDMF, NMFS and EPA. There have not yet been any discussions on the design of the oyster mitigation. This statement is misleading.

The number of shellfish, the apportionment of species, and the design of the “oyster reef” will be in accordance with the Commonwealth’s October 4, 2012 letter to EPA titled “Response to National Oceanic and Atmospheric Administration – National Marine Fisheries Service, Northeast Region Comments on the Draft Determination for the Proposed South Terminal Project, New Bedford, Massachusetts.”

Section 8.2 – Page 44 – Refers to a monitoring plan? Is that a separate document or is it included later in this document? Also refers to “performance standards” but the standards are not defined. This should be clarified or refer to the appropriate document or section of the document.

Page 46 – Under Success Criteria/Winter Flounder – Winter flounder optimal spawning depths are less than 5 meters, so why does it state the mitigation area will be filed to -16 to -18 feet? Clarify. Why only 3 years of monitoring for eggs, but 5 years of monitoring everything else?

Page 47 – No biological monitoring of the intertidal capped area. Do the EPA studies referred to in the document include intertidal sites? If these studies are being used to justify not including biological monitoring, they should be specifically cited. Why is the acceptance criteria for the size of the area different for the intertidal mitigation compared with the winter flounder mitigation (90% vs 80%)?

Page 48- Will there not be any surveys/sampling of the shellfish mitigation areas? Why not monitor these areas to see if the density is increasing over time?

Appendix 11 – winter flounder egg surveys – Based on the schedule, how will it be possible to get a season of baseline sampling?

Page 54-55- Shellfish mitigation – In a previous section of this document you indicate there will be no monitoring of the shellfish mitigation. However, here you indicate you will first rake the area clean and then seed and do quadrat sampling? Provide more specifics here. How often will the sampling occur? Are you also sampling a control site? Given the time, effort, and money for shellfish mitigation, monitoring should occur to make sure the seeding is successful before continuing for the next 10-15 years. Provide more specifics about the shellfish mitigation monitoring and be consistent in the document about the plans to monitor this mitigation.