



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

New England Field Office  
70 Commercial Street, Suite 300  
Concord, NH 03301-5087  
<http://www.fws.gov/newengland>

August 29, 2012

Ralph W. Abele  
Water Quality Branch  
Office of Ecosystem Protection  
U.S. Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Dear Mr. Abele:

This responds to your August 2, 2012 letter requesting that we concur with the Environmental Protection Agency's (EPA) finding of "not likely to adversely affect" with regard to the endangered roseate tern for the proposed South Terminal Project in New Bedford, Massachusetts. We reviewed your letter and the attached Final Biological Assessment for the Roseate Tern (July 2012) and provide our comments in accordance with the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531, *et seq.*).

EPA determined that the construction and operation of the South Terminal Project would have no direct or indirect effects to roseate tern nesting or staging habitat. We concur that no roseate tern nesting or staging habitat occurs within the project action area. We also concur, based on information provided in the project's Biological Assessment, that roseate tern preferred foraging habitat is not present in the action area. Roseate terns seeking prey may on occasion pass over New Bedford Harbor, given the proximity of Ram Island (9.2 km), a primary nesting island. Construction of the project will require dredging and containment of contaminated sediments that will reduce the levels and amounts of PCBs and other contaminants, which may, in turn, reduce chemical exposure to resident and transient fish, including potential prey fish for roseate terns. This could result in beneficial effects to transient roseate terns that may adventitiously prey on small fish found in New Bedford Harbor, such as herring, sand lance, young mackerel and Atlantic silversides.

Based on the information provided in the Biological Assessment and our analysis of potential impacts, we concur with EPA's determination of not likely to adversely affect. We consider the effects to the potential prey base are insignificant (the size of the impact is so small as to never reach the scale where take is anticipated to occur) for transient foraging terns. Moreover, the likelihood of transient roseate terns foraging in New Bedford Harbor and being affected by

Ralph W. Abele  
August 29, 2012

2

construction activity is discountable (extremely unlikely to occur), given existing levels of noise and vessel traffic in New Bedford Harbor.

Further consultation with us under section 7 of the Endangered Species Act is not required at this time. Should project plans change, or additional information on listed or proposed species becomes available, our concurrence may be reconsidered. Thank you for your cooperation, and please contact Ms. Susi von Oettingen at (603) 223-2541, extension 22, if you need any further assistance.

Sincerely yours,



*Archie*  
Thomas R. Chapman  
Supervisor  
New England Field Office

Ralph W. Abele  
August 29, 2012

3

cc: Carolyn Mostello, MADFW  
Jackie LeClair, EPA  
Wetlands Protection Unit  
OEP-05  
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Boston, MA 02109-3912  
Reading file  
ES: SvonOettingen:8-29-12:603-223-2541