



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

August 2, 2012

Mr. Tom Chapman, Supervisor  
New England Field Office  
U.S. Fish and Wildlife Service  
70 Commercial Street, Suite 300  
Concord, New Hampshire 03301

Re: South Terminal Project, New Bedford Massachusetts

Dear Mr. Chapman:

The U.S. Environmental Protection Agency (EPA) is currently engaged in an informal consultation with the U.S. Fish & Wildlife Service (FWS) under Section 7 of the Endangered Species Act (ESA) with regard to the New Bedford Harbor-South Terminal Project (South Terminal Project). The South Terminal Project is a multiple-use marine terminal proposed to be located in New Bedford, Massachusetts. Attached is EPA's final Biological Assessment (BA) for the roseate tern. The BA includes a description of the project changes that have occurred since EPA originally wrote to FWS concerning the South Terminal Project in 2010. Also attached is a revised list of references which corrects several instances where sources were incorrectly cited in the original list of references.

Originally EPA had also been looking at the potential effects of the project on the federally threatened Piping Plover and Northeastern beach tiger beetle. However EPA subsequently determined that these two species are not found in the action area for the project, and in a letter dated July 17, 2012, FWS agreed with EPA's assessment. Therefore, the final BA only addresses the potential effects of the project on the roseate tern.

Based on our analysis in the attached BA, EPA concludes that the proposed South Terminal Project is unlikely to adversely affect the roseate tern. The project site contains neither nesting habitat nor migratory staging area habitat for roseate terns. Therefore, the project would have no direct effect on such habitat. In addition, the project is sufficiently distant from available roseate tern nesting habitat and migratory staging area habitat, that it will have no indirect effect on these habitats, either.

EPA has also determined that the project would be unlikely to have any adverse effect on roseate terns foraging during nesting or migration because roseate terns are not expected to use the project area for foraging to any significant degree. Although the distance from the project location to the Ram Island and Bird Island roseate tern breeding colonies is within the estimated foraging range of roseate terns, there are foraging sites closer to these colonies that have site

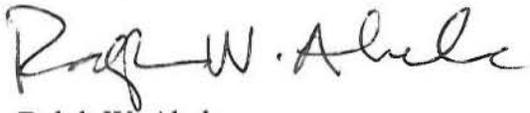
characteristics preferred by foraging roseate terns. Based on existing literature and known feeding habitats, roseate terns use specialized sites for feeding where currents or rip tides bring prey species to the surface, and these conditions do not exist in the project area but do exist at other locations in or around Buzzards Bay. Moreover, already existing noise and vessel traffic in the harbor are likely to deter any potential foraging in the harbor by roseate terns. In light of the above considerations, EPA believes that there is, at most, only a small likelihood that a transient roseate tern might seek to use the project area for foraging during nesting and migration.

If such a transient roseate tern did seek to forage in the project area, it is highly unlikely that it would encounter any contamination, or that its prey sources would have been reduced in any meaningful way, as a result of the project. In addition, given that, as discussed in the BA, current noise and vessel traffic in the harbor are likely deterrents to the use of the harbor by roseate terns for foraging, additional noise from the project is not expected to adversely affect the species. Furthermore, in the unlikely event that transient roseate terns enter the inner harbor to forage, injury as a result of foraging during dredging is highly unlikely because noise and vessel traffic would likely serve to drive the birds away from the South Terminal site. Finally, any increased threat over existing conditions to migrating roseate terns due to increased vessel traffic and potential oil spills would be minimal.

EPA concludes that, though the proposed NBH-South Terminal project may affect the roseate tern, the project is unlikely to adversely affect the species. EPA seeks FWS concurrence that the project is unlikely to adversely affect the species.

Please contact me if you have any questions at (617) 918-1629.

Sincerely,

A handwritten signature in black ink that reads "Ralph W. Abele". The signature is written in a cursive style with a large initial "R".

Ralph W. Abele  
Water Quality Branch  
Office of Ecosystem Protection

Attachments