



The Commonwealth of Massachusetts

Division of Marine Fisheries

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Director

February 12, 2025

Tisbury Conservation Commission
PO Box 1239
Vineyard Haven, MA

Dear Commissioners:

The Division of Marine Fisheries (MA DMF) has reviewed the Notice of Intent application by Picky Lane LLC., to reconstruct an existing timber pier, lower deck area, steps, boardwalk, and timber groin within Vineyard Haven Harbor at 53 High Hedge Lane in the Town of Tisbury. The project was reviewed with respect to potential impacts to marine fisheries resources and habitat.

The project site lies within mapped shellfish habitat for bay scallop (*Argopecten irradians*), razor clam (*Ensis leei*), softshell clam (*Mya arenaria*), and northern quahog (*Mercenaria mercenaria*). Waters within the project site have habitat characteristics suitable for these species. Land containing shellfish is deemed significant to the interest of the Wetlands Protection Act (310 CMR 10.34) and the protection of marine fisheries.

The project site has been mapped by the Massachusetts Department of Environmental Protection (MassDEP) as an eelgrass (*Zostera marina*) meadow. Eelgrass beds provide one of the most productive habitats for numerous marine species [1-2] and are designated "special aquatic sites" under the Federal Clean Water Act 404(b) (1) guidelines. Every effort should be made to avoid impacts to eelgrass.

The project site lies within a horseshoe crab (*Limulus polyphemus*) spawning area and the species has been recorded nesting in Lagoon Harbor. Horseshoe crabs deposit their eggs in the upper intertidal regions of sandy beaches from late spring to early summer during spring high tides. Adult crabs congregate in deep waters during the day while they wait to spawn on nearby beaches at night. Eggs hatch approximately two to four weeks later. The 2024 benchmark stock assessment indicates that the New England horseshoe crab stock status continues to be neutral [3]. Continued efforts should be made to protect the species and facilitate further stock improvement

MA DMF offers the following comments for your consideration:

- MA DMF recommends the proponent conduct an eelgrass survey prior to construction to confirm the seaward structures proposed for reconstruction do not lie within 25 feet of any eelgrass. The survey should be conducted within the growing season (June-September) and according to MA DMF Eelgrass Survey Guidelines [4].
- Repair of the structure should be within the same footprint as the existing structure or landward. Any expansion of the footprint into tidal waters of the Commonwealth will result in the loss of shellfish habitat and likely eelgrass habitat.
- A **time-of-year (TOY)** restriction should be observed to protect sensitive life stages of horseshoe crabs from beach construction activity on potential nesting beaches. Beach construction activity - such as piling removal and installation - could bury and/or crush spawning adult crabs and nests. Eggs in nests buried too deep may not hatch. No beach construction activity should take place from May 1 – July 31 of any year [5].
- Construction activity, including staging of construction material and equipment as well as equipment transit to and from the construction site, should avoid intertidal habitat to the greatest extent practicable. As much work as possible should be conducted from the upland portion of the project site or from the barge to minimize impacts and avoid compaction of sediment in mapped shellfish habitat. Any work in the intertidal zone should be limited to low tide such that work is conducted in the “dry”.
- Any activities requiring a barge should be coordinated to avoid barge grounding or operation in shallow water (less than 2 feet between motor skeg and substrate) over mapped shellfish habitat.
- Fuel spills from refueling of construction equipment will adversely impact sensitive resource areas. Impacts to resource areas can be avoided by prohibiting all land-based equipment from being refueled on-site. If equipment is refueled on-site, adequate containment and clean up material should be required to minimize impacts.

Questions regarding this review may be directed to Amanda Davis in our New Bedford office at Amanda.davis@mass.gov.

Sincerely,

Amanda Davis

Amanda Davis

Environmental Analyst

MA Division of Marine Fisheries

Cc:

Bradford Bower, Woods Hole Group, Inc.

Danielle Ewart, Tisbury Shellfish Constable
John Logan, Kara Falvey, Michael Blanco, Derek Perry, Matt Camisa, MA DMF
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References:

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