March 10, 2020

Newbury Conservation Commission
Newbury Municipal Offices Suite 101
Attn: Doug Packer
12 Kent Way
Byfield, MA 01922

Dear Commissioners:

The Massachusetts Division of Marine Fisheries (MA DMF) has reviewed the Notice of Intent (NOI) Application for the proposed new float, ramp, and catwalk at parcel R30-0-5 in Newbury, MA along Little Pine Island Creek. The proposed work includes the installation of an 18sf float, 24sf post-supported ramp, and 84sf post-supported catwalk.

The proposed project site is in the Great Marsh Area of Critical Environmental Concern (ACEC). The Great Marsh ACEC is uniquely important for fishing, shellfishing, tourism, and recreation in MA. The proposed new ramp and catwalk would be placed on Salt Marsh (310 CMR 10.32). Salt marshes are significant to the protection of marine fisheries because they support the base of coastal food webs and provide spawning, nursery, and forage habitat. The proposed new float will be placed on Land Containing Shellfish (310 CMR 10.34) and Coastal Beach (310 CMR 10.27). This area has been mapped as shellfish habitat by MA DMF for soft shell clam (*Mya arenaria*) and blue mussel (*Mytilus edulis*) within shellfish growing area N2.4, classified as conditionally restricted for shellfish harvest. In addition, the proposed float will be placed over mud flat (Google Earth Pro satellite imagery). Mud flats provide one of the most productive marine habitats for numerous marine species and are designated “special aquatic sites” under the Federal Clean Water Act.

Below is a list of concerns and associated recommendations by MA DMF for avoidance, minimization, and mitigation of impacts by the proposed work to the fisheries resources listed above. For additional details, please find enclosed the MA Division of Marine Fisheries Environmental Recommendations for Small Docks and Floats.

- **Float too close to bottom on Land Containing Shellfish**: As per DEP guide to Small Docks & Piers, floats located on Land Containing Shellfish must be at least 2½ft from the bottom at MLW to prevent adverse impacts to marine resources. The proposed float will not achieve the minimum 2½ft from the bottom at MLW.
  - DMF recommends all floats be positioned to avoid areas above MLW. If floats cannot be relocated to deeper water, the minimum height of 2½ft from the bottom at MLW can be achieved via the installation of float legs or skids.
• **Float off-season storage unclear:** As per DEP guide to Small Docks & Piers, floats should be removed in the off season and stored upland of resource areas. The storage plan for floats in the off-season is unclear in the proposal.
  - DMF recommends a condition where floats must be stored in an upland location during the off-season, if not already a standard condition.

• **Additional permits required:** In addition to the NOI, the applicant is required to apply for a US Army Core of Engineers General Permit for the proposed project.

Thank you for considering our comments. If you have questions about this review, please call me at (978) 282-0308 x108 or email me at Forest.Schenck@Mass.gov.

Sincerely,

Forest Schenck
Marine Fisheries Habitat Specialist

Cc.  
David Manty  
T. Evans, MA DMF  
B. Boeri, MA CZM  
B. Newman, ACOE

Enclosure: MA Division of Marine Fisheries Environmental Recommendations for Small Docks and Floats