

East Lyme Public Trust Foundation, Inc



P.O. Box 174, East Lyme, CT 06357

Monday, September 21, 2009

Mr. Micheal Grzywinski
Office of Long Island Sound Programs
Department of Environmental Protection
79 Elm Street
Harford, Connecticut 06106-5127

re: Application No. 200600029-MG
Towns of East Lyme and Waterford

Dear Mr. Grzywinski:

On behalf of the East Lyme Public Trust Foundation, Inc., I am pleased to endorse the above referenced application and your intention to approve it as conditioned by the proposed project specifications embodied in the revised Application that you Noticed on September 8, 2009.

Since 1994, this Foundation has dedicated its full efforts to design, fund, and implement the Niantic Bay Overlook project and its shoreline as a public coastal park that we donated to East Lyme in order to provide the public free and safe access to this piece of Long Island Sound. The Amtrak Project impacts that public park very significantly. We are cautiously pleased and relieved that after many years of working with you, the Federal Railroad Administration, the U.S. Corps of Engineers, the U.S. Coast Guard, the National Marine Fisheries Service, and Amtrak to see this important state construction permit pending issuance. If it is fully implemented, replacement of the Niantic River Railroad Bridge will result in the Niantic Bay Boardwalk and its associated beach actually being made better, larger, and more stable after the permitted work than it was before.

However, after speaking with Ms. Lee, of the U.S. Corps of Engineers on September 18, 2009, I learned that its pending construction permit, (NAE-2006-325), defined by its Public Notice of September 8, 2009, has not been fully coordinated with the Corps or with its commenting agencies, especially the National Marine Fisheries Service. NMFS has serious concern for impacts to benthic organisms caused by the construction of a groin and associated beach nourishment that is not now adequately addressed in either the Corps' or the state's applications. We believe that the potential natural resources in question, such as Winter Flounder habitat, in fact are not impacted by the proposed groin and beach nourishment. That fact can be readily addressed by the considerable research documented in the Millstone monitoring studies undertaken over the past several years. However, it appears that such assessments are not yet part of either of the subject applications.

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The deficiency is apparently due to addition of the proposed groin and beach nourishment to the original plan registered with the Corps many months ago but not subsequently coordinated with the relevant federal jurisdictions. We believe that this lack of federal agency coordination is likely to lead the National Oceanic and Atmospheric Administration, through its National Marine Fisheries Service, to recommend that the Corps deny the present application. Furthermore, we believe that the Corps' federal jurisdictions (i.e. Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act), would override the state's approval of the subject state application.

We hope and expect that the Corps will offer Amtrak an opportunity to provide the missing information as it relates to documenting the absence of possible benthic habitat impacts. Such evidence will thus allow this important project to go forward. If our understanding of these facts is in error, please correct our misunderstanding. However, and regardless of the outcome of the state and federal permit processes, rest assured that the Foundation will continue its work to preserve and protect the park and that we will continue to report to our 1,500 donors and the thousands of annual park visitors who want to track progress over the long duration of the anticipated Amtrak construction. In anticipation of that effort, we donated several security video cameras to the park that will continue to provide live and recorded images of the Niantic Bay coastal zone and, in particular, the construction site in question. We invite you to view our initial efforts at:

<http://www.publictrustfoundation.org/webcam.htm>

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert Redden".

President