

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

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August 29, 2020

Steve Boisvert, Director
Civil/Facilities Division
McFarland Johnson
60 Railroad Place, Suite 402
Saratoga Springs, NY 12866

**Re: Beacon Island Parcel
SAV and Mussel Surveys
DEC #4-0122-00322/00001
Town of Bethlehem, Albany County**

Dear Mr. Boisvert:

The Department has reviewed the Submerged Aquatic Vegetation (SAV) and Mussel Surveys submitted on August 10, 2020 for the proposed Port of Albany Expansion, and offers the following comments:

Mussels

Essentially, if the Port of Albany can redesign the project to avoid impact or harm to the S2S3 freshwater mussels located in the survey, then relocation would not be necessary. If avoidance is not possible, then a relocation plan will need to be designed and submitted for review should the project involve disturbance to these resources. This is based on the presence of Fragile papershell (*L. fragilis*), which is identified as SGCN S2S3 in the mussel guidance and would mean a relocation is required before work can be conducted. The surveyor also found "old relic" shells of alewife floater (*Anodonta implicata*), a S1S2 ranked species, which would be required to be relocated.

The license that the license holder (Ethan Nadeau) applied for did not include a relocation plan, however, the license holder can apply for a license amendment to include the relocation plan with the Department's Central Office. The applicant would need to submit the relocation plan and relocation site for review and approval. Ultimately, the relocation would need to occur within the same year that in water construction begins.

SAV

Based on the concept plans, much of the *Vallisneria* would be impacted. Every effort should be made to avoid this area if possible. It is very difficult to transplant *Vallisneria* as it requires appropriate depths and sediment and procedures for transplant. Another option would be to protect one SAV bed with *Vallisneria* and take the *Vallisneria* that is planned to be impacted and design a transplant method to add to the protected SAV bed.

For both Mussels and SAV:

Alternatives that avoid and reduce impacts to any SAV communities and mussel communities must be fully developed, evaluated, and presented. The project sponsors should first determine if the project can be revised to avoid these resources. If they cannot, then relocation plans and transplant/mitigation plans must be developed.

The vallisneria and mussels are collocated in some areas so that may be an opportunity to adjust the designs to protect some areas rather than attempt the relocation of mussels or replanting of SAV beds.

If you have any questions or concerns, please feel free to contact me.

Sincerely,



Nancy M. Baker
Regional Permit Administrator

ecc: Rich Hendrick, Port District Commission
Trevor Brady, BEH
Natalie Sacco, DEC-CO
Heather Gierloff, DEC