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January 14, 2016

Attorney General George Jepsen
Office of the Attorney General
55 Elm Street
Hartford, Connecticut 06106

Subject: November 20, 2015 Proposed Final Decision in the matter of Department of Energy and Environmental Protection (DEEP) Application No. 201503186-KB

Dear Attorney General Jepsen:

On behalf of the Stamford Harbor Management Commission (SHMC), I am writing to request that you review the above-referenced Proposed Final Decision (the Decision) issued by DEEP Hearing Officer Janice B. Deshais and issue an opinion regarding whether it meets the “show cause” requirement of Sec. 22a-113n (b) of the Connecticut General Statutes.

Pursuant to the Decision, a DEEP permit for dredging and construction of in-water structures in the Stamford Harbor Management Area was issued by the DEEP Office of Long Island Sound Programs (OLISP) to Southfield Property, LLC on December 14, 2015. This permit authorizes an integral part of a much larger waterfront redevelopment plan affecting significant areas on and near the Stamford waterfront. A copy of the Decision is enclosed for your convenience.

The SHMC considered this matter during its meeting on December 15, 2015 and approved a motion to transmit our concerns to your office. It is our opinion that the Decision inadequately represents the public record for this application and fails to comply with Sec. 22a-113n (b) of the General Statutes. That section makes clear that a recommendation of the SHMC made pursuant to the Stamford Harbor Management Plan is binding on any official of the state when making regulatory decisions or undertaking or sponsoring development affecting the area within the SHMC’s jurisdiction, unless such official shows cause why a different action should be taken.

When reviewing the Decision, please consider that the City of Stamford has adopted a municipal Harbor Management Plan, duly approved by the State of Connecticut, in accordance with Sec. 22a-113m of the General Statutes. Furthermore, pursuant to the Harbor Management Plan and

OLISP requirements, the SHMC has a well-defined role in the DEEP's coastal permitting process for all proposed activities affecting the city's municipal harbor management jurisdiction. That jurisdiction is known as the Stamford Harbor Management Area. The SHMC reviews proposals affecting the real property on, in, or contiguous to the Harbor Management Area for consistency with the Plan and transmits recommendations to the appropriate state and local regulatory agencies.

In accordance with its powers, duties, and authorities established in the General Statutes, Stamford Code of Ordinances, and Harbor Management Plan, the SHMC conducted an extensive review of the application addressed in the Decision. Our review began with pre-application plans submitted to the SHMC by the Applicant and continued through the DEEP's public hearing process. The SHMC's recommendations and findings, along with a timeline of events and statement of facts relevant to our review, were transmitted in my September 18, 2015 letter to DEEP Hearing Officer Deshais. A copy of this letter is enclosed for your review.

Despite the SHMC's significant involvement and responsibility in the DEEP's coastal permitting process for this application, the Decision includes no mention of the Harbor Management Plan and the SHMC's municipal authority; does not describe the SHMC's established role in the permitting process; and neither mentions nor addresses the SHMC's September 18, 2015 letter. For these reasons, the SHMC believes that the Decision in the matter of DEEP Application No. 201503186-KB is deficient.

Most importantly,, the Decision fails to acknowledge the binding nature of the SHMC's recommendations pursuant to Sec. 22a-113n of the General Statutes and fails to articulate, in a meaningful manner, suitable for independent review, why the application was approved by the DEEP contrary to the SHMC's recommendations.

The SHMC looks forward to to your direction in this matter.. I can be reached at (315) 651-0070 or dortelli@stamfordct.gov.

Sincerely,



Dr. Damian Ortelli
Chairman, Stamford Harbor Management Commission

Enclosures

cc:

Ms. Janice DeShais, CT DEEP Office of Adjudications

Mr. Frank Fedeli, Stamford Office of Operations

Mr. John Freeman, Attorney, Harbor Point Development

Mr. Robert Klee, Commissioner of Energy and Environmental Protection

Mr. James Minor, Stamford Office of the Corporation Counsel

Mr. Brian Thompson, CT DEEP Office of Long Island Sound Programs

Mr. Griffith Trow, Chairman, SHMC Application Review Committee