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May 27, 2022

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Benjamin H. Grumbles
Secretary
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Re: Assessment of Ever Forward Grounding and Recovery Impacts

Dear Secretary Haddaway-Riccio and Secretary Grumbles

We shared the collective relief when the Ever Forward was refloated on April 17 (Easter Sunday) from its grounding outside the Craighill Channel in upper Chesapeake Bay. The coordinated agencies and contractors are to be commended for the herculean effort to refloat the container vessel.

On behalf of the members of DFA, including more than 80% of the licensed commercial watermen in Maryland, we are now keenly focused on the assessment of impacts from the ship's grounding and refloating efforts on the environment – including oyster bars (i.e., NOB 4-2), fish spawning, commercial crabbing and fishing, dredge spoils placement, Bay water quality and the ecosystem due to dredging. Having reviewed the modified Wetlands License No. 22-0268EX(R1) issued to Donjon-Smit, LLC by the Board of Public Works on March 29, 2022 (the "License"), we understand that both MDE and DNR are or will be reviewing post dredge bathymetric surveys, impacts on flora and fauna, damage to natural oyster bars and crab habitat, water quality impacts and mitigation requirement recommendations. We look forward to those assessments. We too are gathering information from our members about observable impacts on the environment and harvesting operations.

Pursuant to the License, all dredged material was to be disposed of on an upland placement cell at the Poplar Island Ecosystem Restoration Project ("Poplar Island"). When asked about the testing of the dredged material (for contaminants) during the DNR Tidal Fisheries Advisory Commission meeting on April 14, 2022, it was stated by Heather Nelson of MDE that there was no additional testing (i.e., no more testing of materials than what is required under the general USACE permit for routine shipping channel dredging) on the assumption that what was being dredged by the contractor to free the ship was the same or similar to routine channel dredge

materials. That is a patently false assumption. The exhibits to the License show the dredging locations to be outside of the channel, particularly on the port side. Experienced commercial watermen believe that the Bay bottom areas that were dredged to free the ship had not been disturbed for decades and may be the site of industrial waste dumping years ago. Indeed, there is anecdotal evidence that the dredged material taken to Polar Island by the Licensee has a noxious odor and was not subject to any testing, even at the intervals that the routine shipping channel dredge materials are to be tested at that disposal site. Other reports indicate the spoils were placed at a special location on Popular Island due to the characteristics of the dredged materials.

We expect that the assessments underway by your agencies will confirm the quantity and quality of the dredged materials resulting from the grounded ship. Per the License, the proposed dredge area was 349,427 square feet to a depth of 43 feet. The minimum amount of estimated dredged material approved for disposal at Poplar Island was 164,236.4 cubic yards. Some media accounts are reporting an estimated 210,000 cubic yards of dredged material relating to the refloating being dumped at Poplar Island (*Talbot Spy*, May 13, 2022).

During the same Tidal Fish Advisory Committee meeting in April, when asked about the visible downstream sediment plumes emanating from the dredging activity, Ms. Nelson advised that a “turbidity curtain” was available on standby to contain suspended solids. Special Condition G. of the License states the Licensee is recommended “to deploy and maintain a turbidity curtain around the work area while dredging from April 1 to June 1...” due to impacts on anadromous fish. There was dredging on and/or after April 1. Did the Licensee deploy and maintain a turbidity curtain in or around the work area at any time? If so, in what location and for what duration? If not, will such decision by the Licensee to not limit water quality degradation be factored into the mitigation requirements?

In order to determine certain reporting and notice deadlines in the License, please advise the date and time that the dredging phase was terminated and the date of “completion of the vessel removal” (see Special Condition I.).

We ask to be put on the list, if any, of interested parties to receive pertinent notices related to the follow up and fulfillment of the License conditions, including any Departmental or BPW hearings.

We cannot miss the opportunity to compare the numerous environmental conditions on the Provisional Permit issued by USACE for the dredging of oyster shells at Man O’War Shoals (CENAB-OPR-MN – MDNR Fisheries Service/Man O’War Shoal Shell Dredging – 2009-61802-M04) with the relatively scant conditions on the emergency License for the large-scale dredging to refloat the container ship. The permit to dredge natural shell from Man O’War Shoals (Tidal Wetlands Case No. 15-WL-0757) was reviewed and approved by USACE, NOAA, NMFS, USCG and MDE, and since May 2018 has been held up by the Board of Public Works due to purported environmental impact concerns (i.e., impact on benthic zone and downstream water quality due to dredging plumes). In year 1 of the 5-year Provisional Permit to dredge shell from Man O’War Shoals, activity is limited to the seasonal collection of baseline environmental data on water quality, oyster populations, and fish and benthic communities – before any dredging. What sort of data collection regarding water quality, benthic zone, fish and/or fauna was conducted before the large-scale dredging to refloat the Ever Forward?

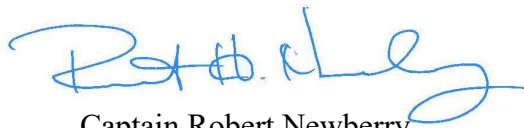


The juxtaposition between the swift and coordinated efforts of federal and State agencies and officials to refloat the Ever Forward and the ever-present resistance of federal and State agencies and officials to allow the harvesting of natural oyster shell from Man O'War Shoals just a few nautical miles upstream from the container ship dredging site is striking and the message loud and clear – the stream of shipping commerce matters most. In early media accounts about the plans to refloat the Ever Forward, some government officials touted the dredge spoils as “needed” for Poplar Island restoration and thus a win-win of sorts. We know better. What was dredged from the Bay bottom to free the ship is not the same materials being dredged on a routine basis from Upper Bay shipping channels. We trust that will be confirmed in your agency assessments by way of testing the materials dumped on Poplar Island pursuant to the License.

We also note the Chesapeake Bay Foundation's reaction and feigned concern about the dredging to refloat the ship compared to CBF's hard core opposition to dredging shell from Man O'War Shoals for reasons such as impacts to the benthic zone and downstream water quality due to plumes from dredging. Likewise, hardly a word from the Coastal Conservation Association about the ship's grounding and refloating impacts on the environment and yet CCA, in lockstep with CBF, opposes dredging Man O'War Shoals due to “environmental impacts” and harm to recreational fishermen. Such duplicity is expected as the missions of CBF and CCA include the intentional demise of wild commercial fisheries. Of course, Baltimore County officials were all hands on deck to free the Ever Forward by whatever means necessary and keep the Port of Baltimore cranking, while saying no way to ever dredging Man O'War Shoal for much needed oyster shell. In the wake of the Ever Forward experience, the pretending should stop about spurious environmental reasons not to dredge Man O'War Shoals when there are so many benefits to be gained Bay wide with readily available natural oyster shells.

Thank you for your attention and consideration of the views and concerns of DFA and the working watermen of Chesapeake Bay.

Sincerely,



Captain Robert Newberry

Chairman

Delmarva Fisheries Association, Inc

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cc: Dorchester Seafood Heritage Association
Kent County Watermen's Association
Queen Anne's County Watermen's Association
Talbot County Watermen's Association
Maryland Clammers Association
Clean Chesapeake Coalition
Eastern Shore Delegation
Matt Rowe, MDE, Water and Science Administration
Chris Judy, DNR, Shellfish Division

