

Subject: Docket #2020-P-W-0014

Date: Friday, November 20, 2020 at 4:01:25 PM Eastern Standard Time

From: Amy D Kyle

To: HearingComments, DNREC (MailBox Resources)

CC: Jones, Matthew R. (DNREC)

1205 Bunting Ave
Fenwick Island DE 19944

November 20, 2020

Wetlands and Subaqueous Lands Section

Department of Natural Resources and Environmental Control

89 Kings Highway, Dover DE 19901

Re: Docket #2020-P-W-0014

Submitted via email to: DNRECHearingComments@delaware.gov

To Whom It May Concern.

This is a comment about a proposed lease of state subaqueous tidelands proposed adjacent to property with the address of 1306 N Schultz Road in Fenwick Island Delaware, in Sussex County, requested by James and Meredith Bruner.

The Department of Natural Resources and Environmental Control (DNREC) convened a hearing about this matter via web platform in early November. The applicant and his representatives presented plans that had been revised from an earlier version originally noticed in the Spring of 2020. The new plan would provide a lease for publicly owned subaqueous lands to accommodate construction and use of a

4 by 13-foot-long pier of which a 4 by 10-foot-long section of the pier will be channel ward of the mean high-water line, a 6 by 45-foot-long "L" dock and a boatlift with four (4) associated pilings and an elevator lift on two (2) pilings abutting the dock in the Little Assawoman Bay.

I would like to thank the staff of DNREC for their efforts to make this project less intrusive into highly used areas of the Bay. I also thank the staff and hearing officer for holding a well conducted and very informative hearing.

I also appreciate that DNREC actually came down here to look at the site and the channel.

The proposal would result in a large dock that goes out into a heavily used part of Assawoman Bay. I would note

that this is a well-established and historic public use for recreational, commercial, and subsistence or sport harvest purposes that predates the filling of this property and its subdivision into arguably developable lots.

I appreciate that the changes have reduced the footprint of the dock and the two boat lifts somewhat. However, this is still a large project that will be constructed out into highly used waters.

The bathymetric map submitted by the applicant's representative shows what I have asserted before – that the deepest part of the channel is very near to the bulkhead and shoreline at the north end of the point.

These deeper waters are heavily used to allow access into the canals at Fenwick, especially in June, July and August. DNREC has not investigated the use in this area, and the applicant does not dispute the assertion of residents that this is a heavily used area with a long historic use. I personally can attest to using the waterway as early as 1970.

The applicant's representative asserted that the loss of use of this deeper area was not significant. His argument was that the "effective depth" of the waterway was less than the depth of this deepest part of the channel. He argued that since boats would need to traverse other, shallower areas, there was no significance to making this area unavailable or less available or available with greater danger to boaters.

However, this assertion is false. The bathymetric survey presented was truncated just to the south of the end of the point. It did not show that a deeper channel continues along the east side of the point, providing access to canals further east and south including those accessible from Farmington Street, Essex Street, and Dagsboro Street.

Availability of this deeper areas off the point makes entry to and exit from Assawoman Bay more achievable given that much of it is very shallow. This deeper channel is essential to being able to make the turn from the western part of Little Assawoman Bay, along the point, and then around the corner to get down to these side canals. It allows use of a centerboard in a sailboat during this maneuver which allows for sufficient tracking to get around that corner. Without that depth, you slide sideways in most winds and cannot sail in. Rather you have to push your boat in.

Several speakers testified that there were advantages to using this area for boats with motors, allowing them to get up on step so that they would draw less water and thereby be able to proceed to other areas of the Bay.

DNREC has not done any safety assessment for this proposed facility. However, it appears to me that it goes out too far and will be a safety hazard for those using the area. I believe that the proposal will interfere with public uses of the waterway and creates new hazards and dangers to boaters, as well as to reduce the access to the Bay for boats located at many parcels. It appears to me that this project will, as amended, create safety and navigation hazards and public nuisance and unduly restrict public use or access to subaqueous lands in an area that is heavily used.

Loss of public use and safety concerns are more significant than the interests of the property owners to build a dock to the north. As others have suggested, these structures, like others, could be located on the western side and avoid these conflicts.

Consequently, I oppose this grant of public resources for this purpose and ask you to deny the application for a lease of subaqueous lands for this project.

I would also note that the State has not maintained the channels nor addressed the recreational needs for boating use in this area over decades, despite the extensive use of this area. The fact that DNREC has not done anything down here to maintain or support boating use or “navigation” does not mean that there is no such use.

Thank you for your consideration of these comments.

Very truly yours,

Amy D Kyle

cc: via email to Matthew Jones at <Matthew.Jones@delaware.gov

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