

June 3, 2013,

Coastal Zone Management
Attn: Kathryn Glenn
251 Causeway Street, Suite 800
Boston, MA 02114

RE: DPA BOUNDARY REVIEW – 33 FORT SQUARE, GLOUCESTER

Dear Ms. Glenn:

This office represents Jeffrey Amero, Trustee, owner of 33 Fort Square, Gloucester, Massachusetts. Mr. Amero is hereby requesting that CZM review the DPA line constituting the northwestern limits of the southernmost portion of the DPA. Specifically, per the third and fourth paragraphs in the bounds and description of the Gloucester DPA, the line running “northeasterly along the northwesterly line of the dredged channel (shown as ‘16½ FT OCT 2004’ on NOAA Chart # 13281) to an angle point on said line where the channel veers northerly; [t]hence northerly along the westerly line of the dredged area (shown as ‘Harbor Cove 15½ FT OCT 2004’ on NOAA Char #13281) to the intersection of said line and the northeasterly projection of the southeasterly line of Parcel 1-9” (footnotes omitted).

Mr. Amero requests that this northwestern line be relocated southeasterly at least 200 feet in an orientation parallel to its current location. It is Mr. Amero’s opinion that the water area between the existing line and the proposed relocation is not in substantial conformance with the criteria set forth in 301 CMR 25.04. The existing line runs for nearly 800 linear feet in close proximity to several parcels of non-DPA uplands¹ located along Fort Square before reaching any water or land area substantially conforming with DPA criteria.

Additionally, an updated NOAA chart (Chart # 13281, October, 2010) designates the actual entrance channel with at least 20 feet of depth required by § 25.04(a)(1) several hundred feet southeast of the existing DPA line. Further, it is Mr. Amero’s contention that the water area between the existing line and the proposed relocation does not substantially contribute to any of the DPA purposes served by the actual entrance channel.

¹ The uplands along the southeastern side of Fort Square are currently outside of the DPA and do not conform to the criteria for designation as DPA.

While this letter is officially on behalf of only Mr. Amero as Trustee owner of 33 Fort Square, it is my understanding that the other property owners along the southeastern portion of Fort Square, including the City of Gloucester, similarly wish to see this relocation take place.

If you need anything further or have any questions, please do not hesitate to contact this office.

Sincerely,

Joel Favazza

JF/fea

PO Box 7041
Gloucester, MA 01930

June 7, 2013

Kathryn Glenn
North Shore Regional Coordinator MCZM
251 Caseway St. Suite 800
Boston, MA 02114-2136

Dear Ms. Glenn,

Thank you for the opportunity to submit comments on the Gloucester DPA Boundary Review. At the earlier public meeting, I expressed my concerns that the larger purpose of the DPA, "to promote and protect water-dependent industrial uses", be kept foremost in mind during this review. I am troubled that there could appear to be opportunities to potentially "thread the needle" into lifting areas of the port out of the DPA, based only on narrow technical assertions that properties meet a consideration for a lifting, such as a statement of "has been/will be voluntarily discontinued by user", followed by a missing of just one of the "standards for designation". I pointed out that Gloucester is an old port, where "speculative" buying of marine industrial properties has started to occur, and where one designation criteria for infrastructure, water depths, etc. might not be met. It makes no sense to consider removing currently working (or potentially working) marine industrial properties from the DPA, just because the property owner wishes to do so.

I am a longstanding member of Citizens for Gloucester Harbor, and for the last couple of years, the Mayor's Maritime Working Group. While I am not in this comment letter representing the views of anyone else in these groups, there has been quite a bit of research, meetings, conferences, etc. that have shaped my understanding of the past adaptability and innovation, present challenges, and bright future prospects of Gloucester's working harbor.

In particular, the City has convened two separate "Maritime Summits", both of which have highlighted the enormous potential for Gloucester in the three areas of: diversified fisheries; marine technology; and ocean science. We have just begun to organize as "innovators" in these fields and are generating new projects in such fields as: retrofitting of fishing boats for high-quality and flexible, multiple-species harvesting and fuel-efficiency; partnerships of fishermen and processors in live-fish markets, freeze-dried and other value-added products; expansion of local fresh catch programs to include institutional customers; processing of chitin and other products from lobster, crab, and clamshell waste and invasive green crabs; poly-culture of shellfish, kelp, seaweed and fish habitat restoration; hatchery stock enhancements; green chemistry solutions from the ocean biomass; and others.

Similarly, there are recent participants in ocean science that have now located in Gloucester, including Ocean Alliance at the Paint Factory and the Pelagics research at Hodgkins Cove. The national "Sailbot" raise, involving Olin Engineering is also being held here in Gloucester next week. The prospects for expansion in science and technology are great.

This is a point in time when it is vital to keep waterfront marine industrial space available for the tremendous opportunities in ocean resource utilization that will be emerging, and to maintain the full-service shoreside services of a working port as well. Speculative lifting of even small areas of the DPA would be counter-productive.

I would like to call your attention to the March, 2013 EDA-funded report, "The Sustainable Working Waterfronts Toolkit", which was prepared with the involvement of Dennis Ducsik, MA CZM and Urban Harbors Institute/Univ. of Massachusetts staff. This report captures very well the challenges and opportunities of Gloucester's working waterfront, so I would like to take the opportunity to highlight key sections for your review as the DPA Boundary Review is conducted. See below (I have underlined key sentences). I would suggest that it would be productive for this new report to be discussed specifically by the six-month "consultation working group".

I appreciate the opportunities you have suggested for public comment at the meetings of this group, but also suggest it is important to include as members the waterfront property owners and users that are fully committed to moving forward in Gloucester with the great opportunities that are emerging in fishing, diversified fisheries, marine technology, and ocean sciences .

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie I. Nelson", with a long horizontal flourish extending to the right.

Valerie I. Nelson, PhD

Excerpts from: The Sustainable Working Waterfronts Toolkit, available at:
<http://www.WaterAccessUS.com>

Pp 2-3 National Importance of Working Waterfronts

Across the U.S., coastal and riparian communities are subject to economic, technological, legislative, ecological, and demographic changes that challenge the continued viability and/or development

of their working waterfronts. Working waterfronts face pressures from competing uses, changing regulations, increasing tax burdens, aging infrastructure, coastal hazards, and emerging waterfront uses. The loss of working waterfronts can negatively impact coastal communities economically, culturally, and environmentally. Changes to the physical environment, such as climate change impacts and other environmental forces, also affect both the shorelines that facilitate access to and from the water and the waters upon which commercial fishing, maritime trade, and recreational tourism activities are conducted. For all these reasons, preservation of existing waterfronts for uses that depend on access to the water is vitally important.

Frequently, efforts to preserve a particular working waterfront from the threat of conversion to non-working waterfront use occur in a piecemeal fashion and on a parcel-by-parcel basis. In many cases, the rate of loss and conversion to non-working waterfront uses has outpaced community action to address the issue. In order for working waterfronts to remain economically vibrant, coastal and riparian communities need to increase their capacity to withstand changing demands on the waterfront and develop creative solutions to maintain water access for businesses and users. Understanding the historic changes and trends of the nation's working waterfronts, as well as the contribution of these working waterfronts to local and regional economies, is critical to informing decision-makers, business owners, and others about the importance of protecting and maintaining working waterfront infrastructure. In order to equip communities, states, and regions with the ability to develop creative solutions to address their specific issues, decision-makers must have access to strategies and tools that have been used in the past to successfully preserve working waterfronts.

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E. Once working waterfront land is converted to other uses, it is

likely lost forever as a working waterfront.

Existing facilities and sites are invaluable assets. Given the high replacement costs of purchasing waterfront property, constructing new infrastructure, and the need to comply with limitations imposed by environmental laws and regulations to protect coastal resources, existing working waterfronts are of great value. Once existing sites are converted to non-water-dependent uses, the future opportunities for working waterfront activities in a community are severely diminished. After a working waterfront has been converted to another use, be it a hotel, dockominium, waterfront park, or any other use, chances are extremely slim that it will be converted back to a waterfront that supports industry. The new use may very well be entirely compatible with a community's long-term plan, but it is important to recognize that the stock of waterfront properties available for industry is finite. Maintaining the nation's current overall inventory of working waterfront lands is critical, as the infrastructure needs of emerging waterfront uses, such as renewable wind, tide and current energy, or even emerging fisheries, are not yet fully understood.

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Theme #2: Working waterfronts are changing, as well as the threats facing them.

Working waterfronts are impacted by various external factors. These factors, whether they are environmental (sea level rise), economic forces (real estate market), or social (increasing populations), all exert great pressure on working waterfronts. The forces of change vary by community and particularly by region of the country. It is important to note that these forces are of a nature and magnitude that community-level planning often cannot control or even anticipate. In many cases, these forces change over time and a particular driver of change in one region can strengthen even as it is waning in another region. Significantly, many of the forces

affecting working waterfronts are only beginning to be understood, such as the impact of sea level rise on port infrastructure. The end result is that working waterfront decline is sometimes well underway, and perhaps irreversible, before communities have even had a chance to understand the ramifications of that loss, let alone prepare for it or try to prevent it.

A. Working waterfronts are often affected by external environmental, economic, and social forces; forces that communities cannot always control or anticipate.

The drivers of change along the nation's waterfronts often are not directly related to the working waterfront itself. Rather, the drivers are broad societal trends that have significant direct and indirect effects on working waterfronts. For example, in recent decades the coastal areas of the nation have attracted a disproportionate number of people, escalating the demand for land for residential/vacation housing and related commercial development. These trends are particularly evident in the mid-Atlantic region. The increase in demand for coastal real estate and the resulting increase in land values, put economic pressure on existing traditional working waterfront activities that occupy desirable waterfront locations. Working waterfront businesses have difficulty competing with the full range of alternative land uses, many of which provide higher economic returns. However, as mentioned above, the value of working waterfronts to coastal communities and to the local and regional economy is often measured in terms beyond real estate value.

The drivers can also be changes in the demand for various marine-related industries, whether brought about by natural resource depletion, technological advances, globalization, shifting demographics or consumer preferences, or competition. These changes may result in less activity at a particular working waterfront and increase pressure to convert to other uses. As these businesses grow, decline, consolidate or shift locations, the

underlying working waterfronts can have a hard time adapting.

These drivers of change are difficult to predict and their social and economic impacts are often profound. For example, the global era of the intermodal shipping container began in 1955 with the modest shipment of a few dozen containers. This relatively simple technology rapidly transformed the shipping industry, altering the scale and geography of ports and the status of dockworkers worldwide. More broadly, containerization affected local development patterns and helped create the global economy. Today, the expansion of the Panama Canal and the opening of the Northwest Passage are having equally profound impacts on ports worldwide. The ripple effect of these external factors is significant to all our nation's working waterfronts.

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There is also significant regional variability in the external factors that drive change along our nation's waterfronts. In New England, the groundfish industry is struggling in the face of significant quota cuts, and the working waterfronts that rely on the groundfish fleet for their business are threatened. Underutilized wharves and piers are subject to repurposing regardless of future growth in fish stocks, and returning those wharves to infrastructure that can support fisheries is difficult and rarely happens. In other regions like the Great Lakes, it is not resource depletion but declining water levels and the lack of federal and state funding for dredging projects that present the most pressing challenge for their working waterfronts.

External forces are in a constant state of flux, and to further complicate matters, they frequently combine with each other. This is particularly true when one of the external forces occurs suddenly. A storm or an oil spill can tip the scale irreversibly for a working waterfront that is already struggling with dwindling fish stocks or deferred maintenance. When forces combine, impacts

that might be significant on their own can become almost insurmountable.

External forces, however, can also present an opportunity for our nation's working waterfronts. The increasing demand for renewable energy, for example, has opened the door for offshore wind and tidal energy, both of which will be reliant on safe and efficient access to the water. Communities and ports that are poised to provide the infrastructure needed for these emerging waterfront industries are the ones that will see new jobs funnel into their waterfront economies.

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C. The lack of mechanisms for measuring the societal and cultural – as opposed to economic – value of working waterfronts renders them susceptible to conversion.

As we have seen, much of the value that working waterfronts and their water-dependent businesses bring to coastal communities is less tangible than monetary contributions. It is not just about economics. This societal value has much to do with cultural significance and the character of the nation's coastal communities. This is particularly true at the smaller end of the scale of working waterfronts, such as a lobster cooperative in Maine that supports 20 fishermen, a family-owned fishing operation in Alaska's Inside Passage, a fish house in North Carolina where a dozen fishermen land their catch, or a charter boat captain in Alabama who needs dock space in the wake of Hurricane Katrina. Small businesses such as these are important to the culture and economy of coastal communities, and their conversion to summer homes, condominiums, and other non-water-dependent uses dramatically alters a community's character.

There is currently no mechanism available to measure the impact of these losses beyond economics. We can speculate that the new

uses may mean more tax income for the town, or may result in businesses that are more lucrative than those they replace, but many coastal residents value the role that traditional working waterfronts play in their community's vitality as a whole. Because of the limited data both on the economic impact (as described above) and on the societal impact of working waterfronts, waterfront communities often lack the meaningful statistics needed to advocate for the protection of working waterfront lands and infrastructure.

DPA review

John Bell [gloucesterwaterfront@gmail.com]

Sent: Sunday, June 09, 2013 9:07 AM

To: Glenn, Kathryn (EEA)

Kathryn,

I am very concerned about changes in the DPA destination through out the port of Gloucester. A "working maritime waterfront" is a community and Commonwealth asset and must be reviewed as such.

Further, if there were to be a complete review of DPA I believe it should be done by your office in conjunction with other Massachusetts ports. Isn't the Seaport Council the best body for deliberation in conjunction with CZM?

Just a couple thoughts and thank you for your work on this important coastal issue.

-John Bell
Resident Gloucester.

On the fly...
Canon & Report Mobile
John Bell
257 East Main Street
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USA

Phone and Text 978 325 1250

Dr. Damon E. Cummings

1063 Washington St.

Gloucester, MA 01930

June 3, 2013

978-283-8725

Kathryn Glenn

North Shore Regional Coordinator MCZM

251 Causeway St. Suite 800

Boston, MA 02114-2136

Dear Ms. Glenn,

This letter concerns the proposed boundary review of Gloucester's Designated Port Area. I am totally in favor of maintaining the DPA as is at least until we see if our recent change from 25% supporting use to 50% allowed supporting use as a result of the recent harbor plan yields continuing development as we have already seen in the case of the Brew Pub on Rogers Street.

I think it is worth pointing out that Gloucester is known as an industrial port and much of our employment base, particularly the year round industrial wage level employment, results from that industrial port despite the fact that our DPA waterfront is less than 5% of Gloucester's total waterfront. The other 95% is already mainly residential, yachting, beaches and other recreational use.

Moreover looking around the DPA a tremendous amount of investment has been made over the last decade in perfectly legal and appropriate DPA uses. Starting at the West end of the DPA, Ocean Crest has installed a production plant for Neptune's Harvest fertilizer using waste from their fish landings and racks from other processors. Mortillaro's Lobster has greatly increased their business and is in the process of installing floats to land lobster boats. Intershell has built a wharf and processing plant and retail outlet. The Brew Pub has taken advantage of the increased supporting use clause to start a new beer brewing and pub facility while providing facilities for fishermen. Basef has installed new landing, auctioning and shipping capability in the former Fisherman's Wharf. The Gloucester House Seven Seas Wharf facility is rebuilding wharf facilities for commercial work. While running a restaurant they provide needed facilities for fishermen, lobstermen, whale watches, and charter boats. The Maritime Gloucester and Display Auction facilities provide modern wharf space and services to commercial fishing boats and passenger vessels as do Rose Marine and the Cruise Ship terminal. After the State Fish Pier, East Gloucester Marine and Beacon Marine have recently invested major funds in renovating their wharf facilities. I am sure I have left some out. The three Americold Freezers have done major renovation work although their business is almost entirely land based and they use their wharf space seldom.

Looking at the investments being made, the properties that have not found new investment stick out like a sore thumb and some of those property owners clearly would like their properties removed from the DPA so that other uses can be allowed, perhaps raising the market value of the properties. The very fact that a review of the DPA boundaries is contemplated raises expectations of a property sale price increase and encourages speculation, thereby hindering the ability of appropriate use buyers to acquire needed waterfront property for marine industrial purposes.

I do not think I need to say why we need a DPA to protect what little of our waterfront is in the DPA. However I note that most of the relevant properties in the DPA are ineligible for review under 301-CMR-25 , 25.03 (2) where it is stated that:

“Areas Not Eligible for Review. The following areas shall not be included in any review carried out under 301 CMR 25.00:

(a) any area that has been the subject of a designation decision under 301 CMR 25.03(5) within the previous five years, except upon a demonstration by a requesting party that substantial and rapid change has occurred in circumstances affecting the suitability of the area to accommodate water-dependent industrial use, as governed by the designation standards set forth in 301 CMR 25.04;

(b) any area within a DPA on which water-dependent industrial use has occurred within the

previous five years, unless the use:

1. did not take place on a reasonably continuous basis, for a substantial period of time;

or

2. has been or will be discontinued voluntarily by the user;

(c) any area within a DPA that is recommended for exclusion from review by the City Council or other municipal body with authority to enact zoning, unless the area is the site of

a proposed project which is exempt by law from compliance with zoning or has been granted

relief from the use restrictions applicable under zoning; and

(d) any land area within a DPA that is entirely bounded by existing DPA lands and/or by any waters. “

Nearly all of the properties in the DPA are ineligible for review based on one or the other of these criteria. Criterion (d) is particularly relevant because our DPA is quite continuous. Criterion (b) is also particularly relevant particularly (b) 2. where I assume “user” means the fisherman who ties up at the wharf and not the property owner who may reside inland.

In any case I appreciate your willingness to consider input from residents who use the waterfront but do not necessarily own property there and hope you will continue to support the little Massachusetts coastline that remains available for marine industry.

Sincerely,

Damon E. Cummings, Ph.D. Ocean Engineering

DPA review

Ann Molloy [ann@neptunesharvest.com]

Sent: Friday, June 07, 2013 3:34 PM

To: Glenn, Kathryn (EEA)

Hi Kathryn,

I just realized today was the last day to send my comments to Boston.

Can I do it via email still?

As I'm sure you know, from hearing me at the Harbor Planning meetings, I'm 100% behind keeping Gloucester in the DPA.

We are in the process of developing new MI products and 2 MI new business, going forward. It would hurt our ability to do this greatly, if we didn't have the DPA to protect us. A lot is at stake here, and now is not the time to bale on our MI future, when so many exciting things are in the works.

I know those comments were supposed to be in Boston by today, so let me know if I should do something else, or if you can forward my comments here, to Boston via email, for the official record.

Thank you,

Ann

Ann Molloy
Sales Director
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JUN 2 2013

Parisi
7 Parker Street
Gloucester, MA 01930
5/31/2013

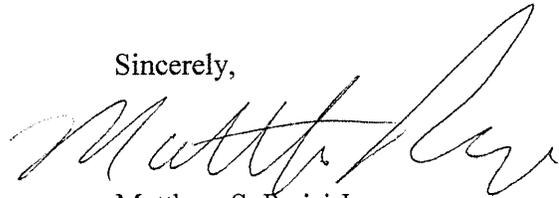
Office of Coastal Zone Management
Attn: Kathryn Glenn, North Shore Regional Coordinator
251 Causeway Street, Suite 800
Boston, MA 02114-2136

Dear Ms. Glenn:

Please be advised that I have owned waterfront property on Gloucester Harbor for over 25 years. I believe that the City of Gloucester should consider removing the DPA from Gloucester Harbor, with the exception of the State Fish Pier. I understand that the intention of DPA is to preserve industrial space on Gloucester Harbor; however, the harbor is at a stand still, due in part to the restrictions of DPA uses and regulations. I would prefer that the DPA, if continued, allow for more uses of recreational boating facilities and housing in areas that may be more suitable for such. I feel that the City's MI regulations are more than sufficient to regulate and protect Gloucester's working waterfront.

Thank you for your time.

Sincerely,



Matthew S. Parisi Jr.

June 2, 2013

Dear Ms Glenn,

I am writing in response to the public comment period related to the CZM review of the DPA in Gloucester, Mass.

JUN 13 2013

Years ago, I copied three excerpts from The 1994 Designated Port Area (DPA) Regulations that best express my views on the importance of maintaining the DPA in Gloucester and why a weakening of this protective status would be detrimental. I quote these poetic and prophetic excerpts below:

From the Introduction-“Massachusetts is an authentic seafaring state where, since colonial times, the waterfront at work has been one of the defining aspects of our culture and our prosperity.”

“The gentrification of industrial shorelands is a worrisome trend because the lost space is virtually irretrievable, in large part because the impediments to replacement are nearly impossible to overcome.”

“.....it would be unrealistic to envision that any meaningful ‘reclamation’ might occur where previously well-developed port space has been given over to housing, office and mixed-use development. Although the channels and bulkheads will still exist, and a truck route or possible rail right-of-way may remain, what is permanently eliminated is the gritty character of working places and with it the legitimacy of the industrial endeavor in the mind’s eye of both the adjoining neighborhood and the community at large.”

I chose these excerpts as they express my belief that the authenticity, history and culture of this old seaport have intrinsic value to this community, the state and the nation. The working waterfront is truly an irreplaceable resource and it has already dwindled to a small percent of the Commonwealth’s coastal waters. Ideally, the physical, intellectual and practical assets of this port and its people could build on its historic past, utilize its present industrial resources and accumulated knowledge and find ways of creating new and adjunctive industries that would have synergies and compatibilities with the current port economies

Until recently, Gloucester has successfully maintained a variety of mixed uses within the DPA and avoided that tipping point where the character of this working place and the legitimacy of industrial effort is questioned and threatened.

I am witnessing a slow and steady progression of gentrification of the DPA industrial harbor and the adjacent properties. The examples I offer are “the Brew Pub” on Harbor Cove that was approved by the state while lacking any foreseeable water dependent use, the hotel development just outside the DPA on MI zoned land allowed through an overlay

district, the new Harborwalk which may be clever and pleasant but is not in reality compatible with sustained industrial legitimacy, Cruiseport, the condos at the bottom of the hill entering East Gloucester where Boley's once was and the blocking of the road that would allow transit to Parker St and the State Fish Pier from there and the development of The Harbor Room further along in East Gloucester within the DPA.

In addition to this trend in development there is a change in the community dialogue, that reflects a growing loss of "the legitimacy of the industrial endeavor in the mind's eye of both the adjoining neighborhood and the community at large." Currently, there are many citizens that favor lifting the DPA and just as many who still support the current DPA designation. This is the first time I have seen Gloucester divided by this issue.

I live in East Gloucester and although it is the more residential portion of Gloucester's industrial hubport, it is the mixture of homes, businesses, tourist destinations like North Shore Art Association and the working waterfront that together make this section of the DPA so appealing.

Rather than seeing Gloucester Harbor as overly industrial and requiring an update to be a viable economic asset, I am concerned that the critical importance of maintaining the harbors industrial capability is being undermined and eroded by the economic focus of the harbor becoming primarily tourism related development and plans for additional recreational boat marinas.

The cry that has been endlessly repeated in recent years is that property owners need greater "flexibility" in the regulations to have successful waterfront businesses; they need "relief" from the DPA regulations. It appears to me, that in actuality, the businesses that have invested significant resources into their properties, in recent years, have managed to be successful and are sustainable. I offer the examples of Intershell, Neptune's Harvest/Oceancrest, Mortillaro's, and the Gloucester House. Where waterfront investment has been made and businesses have committed themselves to success within the DPA regulations there has been positive development and the creation and continuation of businesses willing to adapt. Others have not invested in their properties, for various reasons, and some now hold out hope of cashing in on their properties once the housing and marina protections are lifted, should their properties be successfully excluded from the DPA. Is this not what has occurred in other previously industrial ports? Given the economic incentive for what is termed today "the highest and best use", industrial ports fall to recreational port development and high end housing. It is my understanding that these uses were excluded from Designated Ports for this very reason.

Recently public dialogue in Gloucester has been polarizing, with 1-3 minute spans for public comment and a sense by many that the real decisions are being made prior to the public input with much behind the scenes dialogue, negotiation and solidifying of the deal.

This is such an important issue for Gloucester. I am hoping your assurance of an open and inclusive process is achieved. From my perspective this requires open meetings with

public input, on-going updates on a monthly or quarterly basis by CZM of what is being determined about the harbor properties it is reviewing. I would like the opportunity to hear property owners who want to have their properties lifted from the DPA explain their reasons to the community. I would also encourage your office making it very clear to the public what is allowed and possible in the DPA, especially regarding how to add more marine research to Gloucester.

Thank you,

Marcia F. Hart R.N.

Marcia F. Hart R.N.

June 23, 2013

RE: Gloucester 2013 DPA Boundry Review

To: Kathryn Glenn, Bruce Carlisle, Mayor Kirk, Sarah Garcia, Representative Ferrante,
Senator Tarr, Gloucester 2013 Harbor Planning Committee

Dear Friends:

Mayor Kirk mentioned in passing to me last Friday night her disappointment that only a dozen comments had been received in the DPA boundry review process prior to the published June 7, 2013 closing date. This came as a surprise to me, as I am not aware of having been notified or solicited for comment, in spite of Cape Pond Ice Company, Inc. being a significant, 30-year DPA property owner. I have spoken to other DPA property owners who also say they are not aware of having been contacted for comment.

We respectfully request that our Cape Pond Ice Company, Inc. property, located at 104 and 106A Commercial Street, Gloucester, MA, be removed from Designated Port Area (DPA) status. The grounds for this request are multiple and self-evident, and have been brought to your office's attention multiple times over past years, including 19 years ago in the 1994 Gloucester DPA Review, and by our diligent, two years in-the-crafting, Chamber of Commerce / Waterfront Property Owners Task Force (ie. vested "stakeholders") in the 2008 Gloucester DPA Review, but include the following points, which have only become more urgent as years have passed and our situation dramatically deteriorates, businesses fail, and more Gloucester DPA property becomes fallow and unproductive.

Instead of advancing the stated goal of assisting and benefiting small business within the Gloucester DPA, these regulations currently have substantial and dramatic adverse, negative impact, and discourage investment and economic viability. What we are experiencing is clearly a case of "substantial and rapid" change in circumstances, which your Regulation is accountable to address. Our case at Cape Pond Ice Company speaks for itself:

❖ **1. Inadequate Water Access & Dredging:** Gloucester harbor does not currently have deep water access sufficient for draft of larger vessels, as specified in the Regulation. Our Cape Pond

Ice wharf frontage was last dredged in 1984 (29 years ago) in a Community Dredging Project facilitated by the City of Gloucester Grants Administration office, to a depth of 16' at mean low water. No subsequent dredging of the harbor, channel or wharf frontage has been done, but we have accumulated 29 years worth of subsequent debris and sediment.

❖ **2. Inadequate Land Access / Roadway:** The Commercial Street roadway providing access to our property is substantially sub-standard and inadequate for commercial vehicles, trucks, and tractor trailers (typically 54' rigs with extended cabs with sleeping compartments, often operated by drivers hailing from the wide open roads of Utah and Nebraska). The roadway is frequently impassable or blocked to two-way traffic. The roadway is a dead-end, without a legal turn-around; the roadway is not wide enough or acceptable for industrial use. At least half of the businesses operating on Commercial Street (including Ocean Crest/Neptunes Harvest and Atlantic Fish/Channel Fish Processing) have no truck-height loading docks, or the space on their properties for such loading docks, requiring loading by fork trucks in the public roadway. The public roadway is insufficient for commercial vehicles and trucks to navigate or turn, park or load, without repeatedly trespassing over private property, including backing down across our property at 104 / 106A and the Parisi Property at 108 Commercial Street, resulting in our inability to use and enjoy our private property without frequent and regular damage to parked vehicles on our property, or to our building itself, being hit by turning tractor trailer traffic.

❖ **3. Dramatically Reduced and further declining Fishing Industry need for Ice:** As a direct result and consequence of Federal Fisheries regulations and frameworks now in effect, combined with other factors completely beyond our control, the commercial fishing fleet operating from Gloucester has dramatically declined now to the point where there is no longer a viable "hub port" industry, or sufficient volumes of business to support commercial shoreside infrastructure. Our dedicated 1947 300 ton per day industrial block ice plant, augmented with a new 100 ton capacity Turbo automatic ice installation in 1994, which was indispensable to the industry several decades ago, no longer has sufficient demand from vessels and processors to support ongoing operations profitably, and to maintain the building, wharf and machinery in safe, reliable condition.

When current management purchased Cape Pond Ice Company in 1983, the business was providing some 40,000 tons of ice a year, almost exclusively to the fishing industry, and the ice plant operated by Gloucester Marine Railways on Harbor Loop (which closed in 1997 due to declines in fishing industry needs, and is now the site of non-profit Maritime Gloucester) was doing a comparable business with their 90 ton per day North Star flake ice machine and rake system. In 2011 our fishing related sales were down to 7,250 tons, 35% of total sales (66% of total tons of ice sold). Last year, 2012, Cape Pond Ice Company's total fishing industry ice sales, vessels and processors, had declined to 4,670 tons, and represented only 26% of total sales (53% of tons sold). As of June, 2013 is currently projecting to be less than half of that, an uneconomic level of sales to sustain operations, in spite of our efforts to replace the erosion with other, non-fishing industry markets for ice.

❖ **4. Evolving Technology Reducing Ice Demand:** An additional factor is that evolving new technology, as well as tax and depreciation policies, have made reliance on an industrial shoreside ice factory dramatically less essential. Many surviving vessels and fish processors are

installing their own convenient self-contained ice machines, refrigerated holds, and Refrigerated Sea Water Chilling (RSW) systems. Over the past years we have lost major long-term regular ice business as a result of three separate Gloucester fish processors / off-loading businesses / seafood auctions installing substantial new ice machines (Ocean Crest, Cape Ann Seafood Exchange, Fisherman's Wharf/BASE Gloucester - Incidentally, Ocean Crest tells me they were audited by the MA Dept. of Revenue & Taxation, and were subject to paying years of retro-active back 6.25% MA Sales Tax on ice purchases, because they are a "processor", not an exempt manufacturer – an additional incentive for their own in-house ice machine, in spite of our discounted volume pricing to them).

The herring and mackerel fleet (including Peter Mullen's FV Western Venture and Osprey) have installed on-board RSW systems, eliminating their former daily need for 5-10 tons of ice. Cape Seafoods has installed an icing machine and station, so we are no longer called upon to blow ice into herring and mackerel tankers, as we used to. Some Gloucester vessels (FV Miss Trish) have installed reliable Scandinavian on-board ice machines; others (FV Midnight Sun) refrigerated holds which dramatically reduce need for ice. Some Gloucester vessels (FV Sea Farmer, Grace Marie) now regularly operate from, offload, and get their ice in Boston, saying it is more cost effective for a variety of business reasons than Gloucester. The smaller local day boat fleet, which continue to rely on our ice service, are the vessels hardest hit by current Federal fishing regulations, and with the bleakest prospects for economic viability. From being an essential, primary provider, our ice business has effectively been relegated now to the role of only an occasional, back-up provider of ice, when other's ice machines are temporarily insufficient or under repair.

Our 30 year, multi-million dollar investment in plant upgrades, building, machinery and equipment and wharf, and our "belt-tightening", sacrifice and efforts at diversification of our markets has proved insufficient to offset the declines in our core, historical fishing industry related ice sales. Market expansion into packaged ice, redi-mix concrete ice, sculpture block ice, Dry Ice, t-shirt sales and historic Icehouse tours has proved sadly inadequate to replace eroding fishing industry ice demand, although it has served to subsidize and prolong, at least until now, our ability to hold on and continue to offer service to the fishing industry.

❖ **5. Inadequate & Prohibitively Expensive Municipal Water and Sewer Services:**

Gloucester's municipal infrastructure and costs of doing business are inadequate and/or cost prohibitive to competitively support Marine Industrial activity such as providing ice to fishing industry customers, vessels and processors. In spite of ample water resources and reservoir capacity, Gloucester water rates are very high - presently \$9.16 per 1,000 gallons (compared to New Bedford's recent \$1.36 per 1,000 gallons). There is no municipal volume discount offered for industrial or fishing related water users (as there was up until 1984). Half of our business's water consumption is directly in the ice sold, another half is consumed in the evaporative condensers in our refrigeration system.

Gloucester sewer rates are currently an additional \$11.10 per 1,000 gallons. Gloucester sewer treatment is inadequate to support fish processing on any commercial scale, compared to other Ports and industrial locales, due to the absence of municipal pre-treatment, or capacity for

handling biological solids and grease, requiring expensive investment in costly site-specific pre-treatment installations.

As a direct result of Gloucester's prohibitively high water rates, and the disincentive to further invest in our Commercial Street ice plant, we were forced into the business decision five years ago (2009) to discontinue on-site manufacture of our most popular, labor-intensive packaged ice (5# bags in a 6-pack sleeve), eliminating these local manufacturing jobs. We removed a recently installed new \$150,000 packaged ice production line, and now purchase all our 5# bag products, with our custom Cape Pond Ice label, from the Eastern Ice Company in Fall River, trucking it to Gloucester for our distribution. As an aside, Eastern Ice Company, a fifth generation family business, was recently able to sell their harbor-front ammonia block ice plant on Newport Harbor to a real estate developer, and move their manufacturing operations, with a TIF incentive, to a new \$5.0 million state-of-the-art facility in an industrial park off the highway in Fall River, where a two person crew and automated bagging line with two robotic palletizers can manufacture in one hour all the packaged ice that a six man crew at Cape Pond in Gloucester could do in a 8 hour day. We cannot compete.

When we recently left Eastern Ice in Fall River, my son Larry asked me why we could not to that with our Gloucester ice company real estate, allowing us to continue in the ice business from a new non-water dependent location ? Not allowed in Gloucester – DPA real estate.

❖ **6. Local TD Banking “relationship” dumped in NJ “Work-Out” Department:** DPA use restrictions, combined with currently unfolding fishing industry conditions, result in insufficient practical economic use of our 0.80 acre of harbor-front Real Estate and 180 feet of harbor-front wharf to remain economically viable. Our first mortgage is held by the US Department of Commerce, National Marine Fisheries Service, although our business no longer conforms to their loan criteria due to the fact that as of 2012 only 26% of our total sales was fishing industry related. We have had to request deferral of payments on our first mortgage, due to insufficient cash flow through the winter season this year. Our second mortgage and business Credit Line, also secured by our Real Estate, is held by TD Bank (where I have had a banking relationship since David Marsh opened Gloucester Bank and Trust on Harbor Loop). However, as a result of declines in our fishing industry related ice sales, and the news for future trends for our fishing industry, as well as our move to list our Real Estate on the market for sale, TD has not offered any flexibility, and has moved our account from our regular, long-term loan officer to a Flemington, New Jersey SBA Loan “Work Out” specialist. (So much for local “relationship” banking.) In spite of our continuing efforts, the business is not presently in a position to negotiate re-financing, re-structuring, new borrowing or lending to support operations and further investment to maintain our plant, machinery and equipment.

❖ **7. Neighborhood of Existing Mixed Use & Non-conforming or Long- Vacant Parcels:** The Cape Pond Ice real estate is currently the border parcel on the beginning edge of the Gloucester DPA; our directly abutting neighbors at 108 and 110 Commercial Street, like all the Fort and Commercial Street residences directly across the street, are outside of the DPA, while in a MI zone. Our immediate surrounding neighborhood is highly mixed-use, with commercial and industrial parcels next to non-industrial parcels, including residences, coffee shops, a permitted luxury hotel (as yet to be built), fish markets, public parks, beach and playgrounds, offices, a

dental office, a brewery, pub and restaurants. We are on the perimeter edge of the DPA, arbitrarily the “beginning parcel” next to adjoining parcels not burdened with DPA restrictions.

❖ **8. Financial “Going Concern Qualification”:** Due to declines in our core fishing related ice sales, and the impact of Federal Fisheries Regulations on the industry for the foreseeable future, our ice business, which was founded in 1848, 165 years ago, and which my father and I, and now my son, have operated and invested in since 1983, for 30 years, is now “in distress”. As attached, our long-time CPA, Howard Frisch has issued a “Qualified - Going Concern Opinion” on our 2012 Annual Financial Statements, based on grim prospects for our core fishing related ice markets, high costs of water in Gloucester, and a continuing pattern of declines in our annual sales and margins. This Qualification by our accountant is one factor leading to our Banks’ concerns.

❖ **9. “Gloucester Waterfront Real Estate For Sale”:** In February 2013 we listed the Cape Pond Company Commercial Street, Gloucester Real Estate for Sale (see: [Http://www.veranicommercial.com/ma-real-estate/104-106A-Commercial-St/Gloucester/MA/01930/71485346](http://www.veranicommercial.com/ma-real-estate/104-106A-Commercial-St/Gloucester/MA/01930/71485346) due to the lack of fishing related ice business. In one scenario, we would ideally find a well capitalized partner whom we could "lease back" a small footprint to run a re-constituted commercial ice business, with a new owner using the rest of our great site and structure for higher and better economic use (it is now about 60% vacant / underutilized). But after seven months "on the market", with high profile publicity and aggressive marketing, we have had no offers or substantive interest - every qualified prospect and experienced real estate developer / investor has been scared away by DPA restrictions. They, like us, cannot envision a way forward under these regulations.

Removing our property from the DPA, or further relaxing Gloucester DPA guidelines, or at least re-vamping the DPA program so that it provides some financial benefit (loans, grants or incentives) to private DPA property owners, would be a high priority here to enabling our survival, perhaps in a mixed-use development incorporating a restaurant on our Icehouse 3rd floor overlooking Harbor Cove, Marine Science, Aquaculture and Art space, perhaps in collaboration with an institution of higher learning (Endicott, Yale, MIT, Gordon...), along with a smaller scale commercial ice business on one small footprint, with our Historic Icehouse Exhibit and Tours and sales of our popular “Coolest Guys & Gals Around” shirts and sweats, serving the community and maintaining our proud history into the future. We have preliminary “brainstorming” plans drafted which lay out such a scenario.

Unfortunately, our real estate is currently only one of many on Gloucester’s DPA harbor that is officially “for sale”, sadly underutilized, unprofitable, and deteriorating due to breathtakingly dramatic declines imposed by Federal Fishing Regulations on Gloucester’s fishing industry. Just like the few fishing vessels that we still serve, our problem is that the ground rules have been changed on us. We have borrowed and incurred new bank debt, guaranteed by business and personal assets, trying to position our business to survive a “tight spell” until the fish stocks rebounded in 2014, only to be left now without any viable prospect of continuing in business or to service these new loans.

❖ **10. No Financial Benefit to Private Property Owners in business in the DPA:** While not in the pervue of this 2013 Harbor Plan DPA Boundry Review request for comment, we feel

burdened to again highlight the particular problem that the DPA, as enacted, poses to private property owners in Gloucester, which comprise the vast majority of Gloucester DPA properties. No provision is made within the DPA program to provide off-setting advantages - including access to grants, loans or financial assistance for maintaining our private DPA properties and wharves - to the imposition and burden of DPA activity and use restrictions. This poses an effective "taking" of value and rights, without a comparable, just, fair compensation. Select historically pre-existing properties, including recreational marinas and restaurants, even the massive non-water dependent Americold freezers and Gorton's factory, are legally "Grandfathered" for continued non-conforming, non-DPA allowed use by the property owners, existing or new. However, our own access to such uses which could vastly enhance the economic viability of our Real Estate, continue to be prohibited.

Thank you for your consideration and assistance in addressing this situation.

Sincerely,

R. Scott Memhard, President & General Manager

Cape Pond Ice Company, Inc.

Cc. John Cunningham, Michele Harrison, Kevin Keily, Alex Strysky, DEP, Stephen O'Neal, Tom Skinner, Sarah Robinson, John Bell, Vito Giacalone

Barry Blaisdell
65 East Main St, Unit 1
Gloucester, MA 01930



Office of Coastal Zone Management
Attn: Kathryn Glenn
North Shore Regional Coordinator
251 Causeway St, Suite 800
Boston, MA 02114-2136

June 3, 2013

Dear Ms Glenn;

I am a resident of Gloucester on the waterfront and also owner of a 38 foot sailboat currently docked in Gloucester. In response to your letter of May 5th I would like to make the following observations relative to the DPA boundary in the port.

#1. Ameri Cold in East Gloucester is on the waterfront. It has not had a vessel of any kind tie to its pier for any reason in at least the thirteen years I have lived here. All of its business is either trucked in or out via large tractor trailers through the very narrow streets of East Gloucester. This business would be better served if removed from the waterfront to an industrial park and allow the development of a marina on the property to bring income to the city through property taxes as well as revenue to local businesses by visiting yachts.

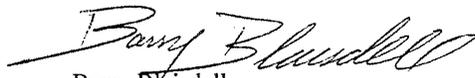
#2. The vacant lot on Rogers Street purchased by the city is only used for a parking lot as no developer will proceed with improving the property under current DPA rules.

#3. The inner harbor on the east side of the state fish pier could easily provide many needed moorings if the Coast Guard would re-position their cutter to the actual Coast Guard Station. These moorings could easily help defray the cost of the new launch the city has purchased.

These are only a few of the many problems I see with the waterfront in this city. A quick review of the waterfront in other cities such as Newburyport, New Bedford, Boston will show that there is room in this harbor for both commercial fishing and pleasure craft.

The revenue this city receives from commercial fishing compared to potential revenue it could be receiving from pleasure craft and facilities for them and support of local business should be self evident.

Respectfully submitted,


Barry Blaisdell

Support of removal DPA in Gloucester

Karen Gorczyca [KGorczyca@dclboston.com]

Sent: Monday, June 10, 2013 8:05 AM

To: Glenn, Kathryn (EEA)

Dear Ms. Glenn,

As an engaged resident of Gloucester I would like to voice my support for removal of all DPA restrictions on the Gloucester waterfront.

Having worked on several revitalization projects around the country I have seen the economical and social benefits of loosened zoning and feel that the lives of the majority of Gloucester's citizens will be greatly improved.

Thank you.

Karen Gorczyca

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Kathryn Glenn,
NS Regional Coordinator, MA Off. Of CZM
251 Causeway St., Suite 800
Boston, MA 02114-2136

June 1, 2013

Dear Ms Glenn et al,

I am writing this very brief letter in an attempt to capture and share my core concerns about the DPA review that CZM has begun in Gloucester, MA. I appreciate the opportunity to share these initial thoughts about this review.

The DPA is a critical and extremely valuable asset to the hub port of Gloucester MA. While many businesses located within the DPA, may have mixed feeling about the DPA, the value of safeguarding these properties and adjacent water sheets for marine industrial/water dependent use cannot be denied. Any review needs to proceed extremely cautiously focused on looking at the reality of the ways in which the properties continue to meet the criteria of the DPA regardless of current use or non-use.

The increase of allowable supporting uses to 50% of the property in the last Harbor Master Plan greatly expanded the opportunities available to business owners. Even with this liberalization of the uses, I do understand that achieving those uses in a tough economy is not easy. But those factors should not change the commitment to sustaining a DPA.

Gloucester and its DPA properties remain well situation for sustained hub port activities in fishing, marine industry and their supporting and accessory uses. Economic supports may be needed; but that is over and above the review process currently underway by CZM. Expanded uses may or may not be a good idea in a redrafted Master Plan; but that also is over and above the review process currently underway by CZM. For the present, the strictest adherence to the current criteria ought to be maintained.

The reasons for which DPAs were established have not disappeared in Massachusetts and will not disappear in the foreseeable future despite potential changes in current fishing, marine industrial and other related economic sectors. Thus, for the present, the strictest adherence to the current criteria ought to be maintained.

Thank you for your attention to my perspectives. I look forward to following along in the review process. As a final note, I would express my appreciation of your commitment to making all meetings open to the public and finding ways to assure that people can have easy awareness of those meetings and an opportunity to comment within the meetings. These are truly admirable commitments that reflect CZM's interest in public participation and awareness.

Sincerely,

M. Sunny Robinson