

November 7, 2024
240199

Sophia L. Wilson, Town Manager
Charles Tetreau, Marine Resource Conservation Officer/Harbormaster
Town of Freeport
30 Main Street
Freeport, Maine 04032

Review Services for the “Island Rover,” Temporary Access and Boat Launch at “0” Shore Drive, Freeport, Maine

Dear Sophia and Charles;

I appreciated the opportunity to meet with the Coastal Waters Commission at the September 11, 2024, meeting to continue project conversations regarding our third-party review comments.

At the meeting there was substantive dialogue between the Coastal Waters Commission, Coastal Waters Commission Legal Counsel, Sebago Technics, Inc, the applicant, and their representatives. Given the comments, responses, and discussion, the Coastal Waters Commission requested that the staff develop a summary document and outline our understanding of the remaining considerations.

The following provides a summary of the remaining considerations, and our recommendations for the Coastal Waters Commission to consider.

1. Prior to any construction, the applicant will need to provide either permits from the USACOE and MaineDEP or written correspondence from the agencies that permits are not required. These permits (if required) may have conditions or requirements that impact or supplement conditions the town may have as part of the various town permits that are required for the project. We recommend this be a condition of the approval.
2. The applicant’s consultant team submitted a general work plan in response to our prior review which outlines the basic steps for the construction and removal. The work plan will need to be made part of any approvals in addition to and supplemented by other requirements of the project approval process. We recommend that prior to any site construction, a pre-construction meeting be held with the applicants engineer, applicant, town representative, environmental consultant, and any other key persons to confirm the work plan, review the schedule, logistics, notifications, permit requirements, movement of the Island Rover and other key project elements. We believe this to be a reasonable request and is customary, especially given the type and nature of the project.

3. We recommend the applicant add the latest FEMA mapping adopted in June of this year to the site plan. This will help with understanding the potential limits of flooding and as part of other permitting for the project.
4. The applicant has agreed to provide written notification to the MDEP, Town and USACE prior to starting the work. We recommend this be a condition of the approval.
5. Environmental Considerations: It is our opinion that the applicant should expect that deformation of the surficial soils and vegetation is likely in the coastal wetland and bay mud. At a minimum, the vegetation will compress and will be visually apparent after removal with potential areas that may require remediation. We believe it remains important to establish who will have the ultimate authority to require remediation and when and if remediation is needed. The applicant has stipulated that if more than 4" of deformation occurs and a good catch of salt marsh fails to re-establish then more invasive remediation would be undertaken.

We suggest the following be considered.

- a. The applicant's environmental consultant and their Engineer of Record (Engineering Assistance and Design, LLC) along with the town's representative shall meet at the site one to two weeks prior to the initiation of the work to review the current condition of salt marsh, photo document the marsh, review the topographical conditions noting areas of deformation within the footprint of the temporary launch assembly. We would further request that the applicants Engineer of Record (EOR) field stake the centerline with station marks prior to the site walk. The site walk provides an important opportunity to field document the condition just prior to the start of construction.
- b. During the construction of the ramp assembly, the applicants EOR shall visit the site and confirm the ramp assembly installation is consistent with the engineer's design. The EOR shall provide the town with a photo documented field report.

We also recommend that the town has either a town official or a designated third party visit the site during the installation. The purpose of these visits is to observe the work for general consistency with the town's approval.

- c. During launching of the Island Rover within the Coastal Wetland area, the EOR shall visit the site daily as a precautionary measure and shall be available to advise the owner should any needs arise. This shall include the preparation of a field report with photos and be provided the town.

We also recommend that the town has either a town official or a designated third party visit the site during the installation. The purpose of these visits is to observe the work for general consistency with the town's approval.

- d. After launching and partial removal of the temporary facilities, the applicants' environmental consultants and town representative shall visit the site while the removals are in progress to assess if the removals are having consequential damage to the coastal wetland. This would provide an opportunity to adjust the removal process and observe the impacts during the removal process.

- e. At the end of the removal process, the applicant's consultant, in coordination with the town's third-party reviewer, shall visit the site and review the general condition of the coastal wetlands, noting areas of settlement, damaged vegetation and documenting the condition with photos and field measurements.

Depending on the condition of the coastal wetland and at the town's third-party reviewer's discretion and potentially in consultation with the regulatory agencies, the coastal wetland may be allowed to go through one growing season to determine if the compacted salt marsh vegetation results in mortality of the vegetation and if a panne condition occurred where pocketed water of enough depth interferes with the marsh vegetation rebounding. The exception would be if there is obvious mortality or soil deformation that occurs at the time of the temporary launch at which time a determination for immediate remediation shall be made in coordination with the Town's third party and regulatory agencies having jurisdiction.

If the vegetation is allowed to cycle through one or more growing seasons, the applicant's environmental consultant shall make a minimum of two site visits per growing season to document (photos and written report) the condition of the coastal wetland and provide this report to the town and town's third-party reviewer. If needed and at the third-party review's discretion, supplemental field visits may be needed.

- f. Should excessive settlement or if wetland mortality is observed as determined by the third-party reviewer, the applicant and their environmental consultant shall remediate the area as approved by the regulatory agencies and the town's third-party reviewer. The applicant has submitted a proposed remediation approach which is considered a baseline remediation. The applicants and their environmental consultants will be responsible for monitoring and maintenance of the remediation including any follow-up remediation until the coastal wetland is restored to its original function over at least two growing seasons or as otherwise determined by the regulatory authorities and third-party reviewer.
6. Geotechnical Considerations: The applicant has noted in prior narratives and at meetings that the crane mats will be placed such that the keel of the ship will be positioned to ride between two crane mats such that the keel could be lowered onto the mats by the dolly lifts if needed. The applicant has further explained that the dollies can be hydraulically adjusted in the vertical plane by up to two feet to compensate for any lateral movement. We also understand from our meeting with the applicant, the travel speed of the dollies will essentially be a crawl suggesting any lateral movement could be addressed given the slow travel speed by raising or lowering the dollies. It was also noted in the work plan that as a backup/secondary means of control, a cable would be attached to an upland piece of equipment and the bow of the haul for redundancy. We believe the slow movement, adjustable dollies and redundancy are agreeable in place of a load test given the dolly adjustments and proposed contingencies.

While the above provisions appear reasonable, there are always project risks and the contractor and applicants design team remain solely responsible for the means, methods, and outcome of the launch, including any unforeseen issues that may arise to successfully launch the ship. The applicants EOR (Ross Cudlitz) has repeatedly noted that the conservatism of the design does not require any specialized site geotechnical investigations.

Since the applicant's engineer is the EOR and the party responsible for the design, they are also responsible for the recommendations, the design and outcome. Therefore, the need for a

geotechnical engineer is the sole responsibility of the applicant and EOR including the outcome. We do not believe the town should take on this responsibility since it is a liability issue that remains the sole responsibility of the applicant and their professional consultants.

7. Cost Estimate and Performance Guarantee: The applicant has stated a performance bond is not necessary. The applicant has stated, "a performance bond is not the appropriate mechanism for this project. However, common sense dictates that carrying insurance is appropriate for the applicant and we have already provided evidence that the applicant will carry substantial insurance for the launching of the vessel." The applicant also noted they are prepared to set aside \$4,800 as an escrow for the cost of removal of the temporary launch ramp and separately \$8,000 for the restoration of the coastal wetland, if necessary, with an additional cost of \$4,500 for tug services if needed. The total amount is \$17,300.00 along with insurance.

We (Sebago Technics, Inc.) noted at the September 11, 2024, Coastal Waters Commission meeting that this is a specialized construction project and that determining a performance guarantee or letter of credit amount would involve expertise beyond what Sebago Technics, Inc. can provide. We believe it is necessary to complete a rigorous and detailed cost estimate (itemized for each component of the work) sufficiently detailed to include all equipment, materials, workforce, remediation, etc. to capture all aspects of the project. Given the location, risk and coastal sensitivity a sufficient bond amount with contingency is recommended.

In this regard, we have reached out to Cianbro Corporation and provided information regarding the project. Cianbro is reviewing the documentation and has yet to decide if they are willing to complete a cost estimate. We have also reached out to Sargent Corporation who have responded that they are not willing to provide a cost estimate. Therefore, we are not prepared to offer an opinion on an appropriate cost until we hear back from Cianbro or seek another appropriate source for an estimate. We recommend this item be tabled by the Coastal Waters Commission until additional information is obtained. Once an independent cost estimate is obtained, reviewed, and agreed to by the town and third-party reviewer, the applicant shall provide a performance guarantee or letter of credit for approval by the Coastal Waters Commission legal counsel.

8. Regarding insurance, we recommend that the Coastal Waters Commission require insurance from the applicant covering liability, general liability, automobile and pollution insurance that cover any claims or damages affiliated with the ship launch. The limits of the insurances shall be set in coordination with the Coastal Waters Commission Legal Counsel. Drafts of the insurances shall be provided to the Coastal Waters Commission legal counsel for approval prior to any construction activities.

Closure:

Thank you for the opportunity to assist the Town of Freeport with this third-party review. As always, please feel free to contact me with any questions.

Sincerely,

SEBAGO TECHNICS, INC.



Owens A. McCullough, P.E.; LEED A.P.
Sr. Vice President of Strategy and Client Development
OAM: oam

Cc. Amy K. Tchao

