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BOARD OF TOWN TRUSTEES
TOWN OF SOUTHOLD

December 4, 2015

Honorable Rob Bishop
Chairman, House Subcommittee on Natural Resources
123 Cannon Building
Washington, DC 20515

Dear Congressman Bishop:

On behalf of the Southold Town Trustees, I respectfully submit for your attention a matter of significant importance to the East End of Long Island. The Magnuson Stevens Fishery Conservation Act (MSFC) includes seven purposes of which number seven is to protect essential fish habitats. National Marine Fisheries Service (NMFS) has determined that the Peconic Estuary is the most critical finfish habitat in NY State. As such, extra environmental protections are called for regarding finfish in the Peconic Estuary. The MSFC Act requires all Federal agencies to consult with NMFS or NOAA on all actions or proposed actions undertaken by an agency that may adversely affect an Essential Fish Habitat (EFH) area. NMFS has determined that dredging the interphases of creeks within the Peconic Estuary could cause the disruption of habitat for various life stages of some EFH-designated species. Specifically, dredging could result in a temporary increase in turbidity. As such, dredging activity must comply with, and be conducted in a manner that is consistent with the approved coastal zone management program. Winter Flounder have been identified as a particular species at risk in the Peconic Estuary. As Winter Flounder tend to spawn during the month of February, additional protections have been developed to protect them by prohibiting the dredging of creek interfaces after January 15th. This dredge window severely hampers the opportunity to dredge creek interphases. Not dredging these interphases will result in the shoaling of the interface, causing reduced tidal flow. Reduced tidal flow will impact the temperature, salinity or water quality within the creek, potentially limiting the successful spawning of the finfish, plus other benthic species. I was told by a representative of the United States Army Corp. of Engineers that it would take an

amendment to the MSFC Act to alter the dredge windows. His exact comment was that it would "take an act of Congress" to make this happen so "good luck."

An interagency meeting was held in June 2012 to address this issue. Attendees included NYDEC, USACE, USF&W and representatives of elected officials at the Local, County, State and Federal Levels. A representative of NMFS/NOAA was also present and offered a great solution. Time of year (TOY) dredging restrictions were discussed. The representative discussed a program used in Massachusetts whereby interphases could be dredged past the January 15th deadline under the following conditions: no more than 30% of channels within each embayment; dredging limited to no more than three days; limit to no more than 10,000 cubic years; and no one specific channel to be granted an exception no greater than once within six months. Since this meeting in 2012, nothing has been done further to address this concern. I am requesting the assistance of members of the House Committee on Natural Resources to either include language to amend the MSFC Act to address this issue, or perhaps with the assistance of the members, a path of less resistance could be determined to address this issue.

I thank you for your consideration and remain available to discuss this matter further with yourself or any member of the committee.

Sincerely,

David Bergen
Southold Town Trustee

cc: Honorable Lee Zeldin
Senator Charles Schumer
Senator Kirsten Gillibrand
Governor Andrew Cuomo
Senator Ken LaValle
Assemblyman Tony Palumbo