

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS**

IN THE MATTER OF : **APPLICATION NO. 202408884-SDF**
CLAM ISLAND ASSOCIATION, INC. : **DECEMBER 22, 2025**

HEARING OFFICER REPORT

**I.
PETITION FOR HEARING**

On August 18, 2025, the Office of Adjudications received a petition for a public hearing on the issuance of a permit to conduct work waterward of the coastal jurisdiction line in tidal, coastal, or navigable waters of the state to construct a dock for residential boating access. The petition was reviewed pursuant to Public Act 25-84, and the Office of Adjudications determined that this matter would proceed as an Informational Public Hearing. This report summarizes the public process that ensued in this matter.

**II.
HEARING AND COMMENTS**

The Informational Public Hearing was held on November 10, 2025, at 5:30 PM via Zoom. Presentations were made by the Department of Energy and Environmental Protection (DEEP) and the Applicant, Clam Island Association, Inc. The opportunity for public comment followed, with a deadline for written comments of November 17, 2025. On December 19, 2025, DEEP staff issued a Comment Response Document, which can be found attached to this report (hereinafter “Attachment I”).



III. CONCLUSION

This is not a contested case, and this office will not issue a proposed or final decision on the permit issuance.

This report confirms the conclusion of the informational hearing process concerning the above-captioned application.

A handwritten signature in dark ink, reading "Kathleen W. Reiser". The signature is written in a cursive style and is positioned above a horizontal line.

Kathleen Reiser
Hearing Officer

cc: Service List



Connecticut Department of Energy and Environmental Protection
Structures, Dredging and Fill Permit Application for
Clam Island Association, Inc., LLC
Application No. 202408884-SDF
Response to Comments
December 19, 2025

The Connecticut Department of Energy and Environmental Protection ("DEEP") published a public notice of tentative determination to approve the above-referenced application on July 25, 2025, with a comment period through August 24, 2025. A petition for a hearing was received on August 18, 2025. An informational public hearing was held on November 10, 2025 and comments were received verbally on that day and in writing until November 17, 2025. Those comments along with the comments from the original notice period are accounted for below. The following is a summary of the comments in italics followed by DEEP staff's response and recommendation.

1. **Accuracy of Address:** *A concern was communicated about the accuracy of the applicant's address being noted as 0 Linden Avenue instead of an access way from 259 Linden Avenue.*

Response:

The applicant's address, according to Branford GIS, is referred to as #0 on the aerial maps and the property location is identified as Linden Avenue. For this reason, the applicant's address is referred to as 0 Linden Avenue.

2. **Notification:** *Comments were submitted regarding concerns that neighboring parcels were not notified of the proposed work and that their certified letters were never received.*

Response:

The submission process for Structures, Dredging, and Fill applications consists of several notifications. Attachment 1: Public Notice of Applications (CGS Section 22a-6g) and Attachment 3: Adjacent Parcel Notification (CGS § 22a-361) are required attachments of the application. The applicant submitted the Certification of Notice From (Attachment 1) with the original application, dated 10/04/2024. This form indicates that a copy of the notice was to appear in the New Haven Register on 10/07/2024 and that a copy of said notice was provided to the chief elected municipal official, Branford's First Selectman; James Cosgrove, as required by CGS § 22a-6g. However, the Notice of Permit Application was not published until 10/8/2024.

Attachment 3: Adjacent Parcel Notification was submitted, in part, with the original application. The consultant, John Lust, provided all remaining information regarding the certified mailing receipt on 06/23/2025. The United States Postal Service receipt was dated 02/24/2024 and certified that all 43 adjacent parcels were notified. Please note that certified letters are not sent to each individual. A Certificate of Mailing from the Post Office is acceptable proof of documentation. The required submission of Attachment 1: Public Notice of Applications and Attachment 3: Adjacent Parcel Notification were found to be sufficient to meet pre-application submission notification requirements.

3. ***Alternatives analysis:*** Multiple petitioners brought up different alternatives that they deemed better options for Maltby Cove.

Response:

During pre-application meetings and communications over many years, the applicant and consultant communicated at length with DEEP's Land and Water Resource's Division (LWRD) staff to determine the best possible option for this site. It was determined that the currently proposed layout was the best option for Clam Island Association member access. Since the proposed dock configuration is within the historical outhaul line system footprint, it was determined that the new structure would have no additional impact to navigation in the cove.

In addition, as part of the application, an alternatives analysis was provided. The application provided a discussion of multiple alternatives, including: a no-build: a rectangular pierhead with a combination of a pulley line system; and several more extensive floating dock systems but none were determined to provide reasonable boating access while staying minimal in nature. The currently proposed configuration was agreed upon by the applicant, LWRD staff, the Department of Agriculture's Bureau of Aquaculture, and the Branford Shellfish Commission because it is designed to minimize disturbance to the existing coastal resources, neighboring commercial dockage, and local navigation while providing reasonable vessel access and minimizing potential impacts.

4. ***Apparent Littoral Boundaries:*** The petitioners commented on the apparent littoral boundaries that are seen on sheet 9 of 11 in the proposed plan set. Multiple petitioners referred to past permit applications and plans for adjacent parcels, such as an application for 259 Linden Avenue for Andre and Debi Poirier. One of the main concerns discussed was that the proposed structure was encroaching into abutting neighbors' apparent littoral areas and that the drawings within the plan set mis-represent the apparent littoral lines.

Response:

These boundaries are considered *apparent* littoral boundaries, as no court determination has been made regarding Maltby Cove. There are several recognized methods to delineate riparian boundaries, but they can only be definitively determined by a court decision or by a formal agreement between the parties. As such, LWRD's responsibility as a regulator must focus on whether there is functional interference by a proposed structure with the riparian access rights of adjacent properties. In this case, we have concluded that all neighboring property owners will continue to be able to exercise appropriate littoral access if the application is approved.

5. ***Association Use and Access:*** Questions arose about applicant's right to propose a modification of the existing facility for association use in Maltby Cove. Commenters asked if they could propose a similar dock.

Response:

The applicant's existing facility, comprised of a fixed pier and outhaul moorings for six vessels, is an authorized structure. The two floats and ramp that are proposed will encroach no further into Maltby Cove than the existing authorized structures.

The use of one parcel on the mainland to access multiple parcels on one island is not a common use in Connecticut. However, the historical association use of the site is long established and will not change with the proposed modification.

A coastal waterfront property owner has a right to access navigable waters from their property. If site conditions are appropriate, a single residential dock may provide reasonable access to the water. If multiple shorefront neighbors within Maltby Cove wish to build a dock similar to the Clam Island one to be shared (rather than multiple smaller docks), such a structure may be found consistent with the CT Coastal Management Act. An application could be submitted to DEEP for a Structures, Dredging, and Fill permit.

6. **Compliance Checks:** *Petitioners expressed concerns about the applicant following the conditions outlined in their permit. Specifically, there were questions about compliance with the vessel size and number restriction. In addition, there was a question about who would advise the boat owners of Clam Island Association of a major storm that could impact their vessels and proposed dock.*

Response:

As part of the final license, the applicant must submit a Work Commencement Form and a Compliance Certification Form. Once work has been completed, the Enforcement Section of LWRD will visit the site to ensure that the built structure is in compliance with the final license. If, once the dock is built, the applicant isn't conforming with the special conditions then neighbors can submit a complaint through the [LWRD Enforcement](#) website.

As for the concerns about storm events, the applicant is responsible for maintaining the proposed structure and keeping it in serviceable condition. To address possible damage during winter storm events, a special condition will be added to the final permit requiring seasonal removal of the ramp and floats.

7. **Dredging:** *Some petitioners are confused that there will be dredging occurring during the proposed project.*

Response:

No dredging is being proposed.

8. **Engineer Signature & Stamp:** *Concerns arose about the validity of the engineering stamp and questions about why it does not appear on all plan drawings. Also, clarity on what a Permit Applicant is in the permit and why John. B. Lust is the "Permit Applicant" on the drawings and has signed off on as the checker. Finally, there is a need for clarification as to why John Lust has not affixed his CT Professional Engineers (PE) seal on the drawing because it is believed that this is required in accordance with CT PE statutes.*

Response:

The plans provided adhere to the guidelines, instructions, and requirements for a Structure, Dredging and Fill application. These requirements are described in the [Project Plan Checklist](#). John Lust is not the Permit Applicant, nor is he an engineer - he is the consultant, or "permitting agent" as referred to on the plans.

9. **Environmental Impacts:** *Petitioners questioned if environmental impacts were considered and commented on the potential impacts on adjacent marshlands, water quality, and beach area.*

Response:

DEEP Wildlife Division (Natural Diversity Database); the Department of Agriculture's Bureau of Aquaculture; and the Branford Shellfish Commission provided consultation forms as part of the application which resulted in some of the special conditions included in the draft license. Information provided on those forms related to environmental impacts noted the following:

- ☐ None of these agencies determined the proposed dock would adversely impact their programs.
- ☐ Please note that DEEP's Wildlife Division believes that negative impacts to listed species are not anticipated from the proposed work
- ☐ The proposed project was reviewed by Department of Agriculture, Bureau of Aquaculture and the Branford Shellfish Commission. Both found that minimal impacts to shellfish beds in the area could be addressed with special conditions which were added to the license.

10. **Navigation and Boating Impacts:** *Several commenters asserted that the proposed ramp and floats would negatively impact swimming, boating and general use of Maltby Cove.*

Response:

During the application review, LWRD staff reached out to Yolanda Cooley from DEEP's Boating Division. In a January 1, 2025 memo, she stated that the proposed dock does not present a hazard to navigation or adverse impact to the public's use of the waters. In addition, she stated that since the proposed structure lies in the littoral area within the property boundaries of the applicant, it is not expected that the proposed structure will obstruct or hinder boating access from either adjacent neighboring property.

Also, as part of the license there are special conditions such as a Berthing Restriction and Berth Vessel Size Restriction. These special conditions were added to the license to minimize navigational conflicts that could be caused by the size or number of vessels berthed from this site.

11. **Field Verification:** *There was a request to confirm if a field verification was completed.*

Response:

A site visit was conducted on 10/21/2024 to confirm plan and application accuracy.

12. **Next Steps in the Process:** *There was a request to confirm the next steps in the process.*

Response:

Upon license issuance, the licensee has five years to complete the work, and time-of-year restrictions must be followed. The Work Commencement Form must be submitted to LWRD no later than two weeks prior to work. See also response to comment #6 about compliance with the license.

13. **History of Maltby Cove:** *Petitioners referred to past unauthorized work completed in Maltby Cove that led to impacts to tidal wetlands by owners of 251 Linden Avenue. They also referred to a past application for 259 Linden Avenue that was redesigned after the hearing clarified water depth concerns in comparison to the originally designed structures. This also brought up the apparent littoral lines that were drawn slightly differently in the plan material for the 259 Linden Avenue application.*

Response:

Every application reviewed by LWRD permitting staff is analyzed for possible impacts to coastal resources, navigation, and the public trust. This application review considered these regulatory responsibilities in addition to the authorized use of the existing facility. The enforcement and permit history of adjacent parcels in the cove are relevant only to the extent that they have influenced the existing conditions in the cove. As for the comments referring to the apparent littoral lines used in the 259 Linden Avenue application, please refer to the response under comment #4.

14. **Noise:** *Concerns were raised about possible noise from the proposed structure and a misconception that the pilings will be metal.*

Response:

The applicant is proposing to utilize wood pilings, as noted on sheet 10 (Proposed 12" Timber Pilings) , to minimize noise impacts from the proposed structures.

15. **Size:** *Many petitioners brought up the proposed size of the dock. Their concerns were that it is too large, and the magnitude and scale of the proposed structure is encroaching too far into the cove.*

Response:

On sheet 8 of 11 of the site plan set, the applicant shows the existing, historical, pully line system overlayed with the proposed dock structure. The proposed structure is within the existing footprint of the historical pully line system, and the overall footprint of the facility is not increased. Special conditions such as Berthing Restriction and Berth Vessel Size Restriction were added to the license to make sure that the berthed vessels are a reasonable size and don't encroach further than the historical pully line system.

Additionally, the boats will be berthed/tied to the floats. The swing radius needed for boats on the historical mooring lines required more space depending on the wind and tide (see sheet 4 of the plans). The overall areal extent of the facility will be smaller with a consistent berthing arrangement (see sheet 8 of the plans).

16. **Unconfined Instream Work:** *Some petitioners are confused that there will be unconfined instream work occurring during the proposed project.*

Response:

No unconfined instream work is being proposed.

17. **Utilities:** *Questions arose about the possible use of utilities at the site including power, lights, water, or even aerators or bubblers. Also, there were concerns about the ability to launch boat at the site via a ramp.*

Response:

The license does not authorize any utilities.

If you have any questions regarding this matter or wish to meet to discuss the project, please contact Sabrina Lyall at (860) 424-3775 or Sabrina.Lyall@ct.gov .

Sincerely,

Sabrina Lyall

Sabrina Lyall, Environmental Analyst
Land & Water Resources Division
Bureau of Water Protection and Land Reuse

cc: John B Lust; johnblustjr@gmail.com
File #202408884-SDF
US ACOE