

**Designation Decision
for the
Chelsea Creek Designated Port Area
Chelsea, MA**

**Executive Office of Energy and Environmental Affairs
Office of Coastal Zone Management
April 6, 2016**

I. Introduction

Pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00, today as Director of the Office of Coastal Zone Management (CZM), I hereby issue this designation decision for the boundary review of the Chelsea Creek DPA. This decision affirms the findings and proposed DPA boundary modifications in CZM's November 23, 2015 designation report, *Boundary Review of the Chelsea Creek Designated Port Area*, and its issuance concludes the boundary review process, as described below.

In February of 2015, the City of Chelsea formally requested that CZM initiate a review of a portion of the Chelsea Creek DPA. The area requested for review included 20 parcels on the Chelsea side of the DPA (not the entire DPA area within Chelsea) and excluded the entire DPA watersheet and the portions of the DPA within Boston and Revere. CZM accepted the City's request for review in late February 2015, and a notice of review was published in the *Environmental Monitor*. An initial public meeting was held on March 31, 2015 in Chelsea and a 30-day public comment period for the information gathering process closed on April 24, 2015. To inform the boundary review, CZM reviewed comments received and spoke with property owners, city officials, Department of Environmental Protection (DEP) staff, and interested constituents. CZM also conducted reviews of available plans, permits, and licenses applicable to the DPA. A detailed boundary review designation report was issued on November 23, 2015. The report concluded with the finding that the DPA boundary should be modified. Pursuant to 301 CMR 25.03(4), the commencement of a 30-day comment period on the boundary review designation report was noticed in the November 23, 2015 *Environmental Monitor* and a public hearing was held on December 1, 2015. Upon written request, the public comment period was extended for two weeks and closed on January 13, 2016. CZM received oral testimony from four individuals at the public hearing and twelve comments letters on the designation report during the public comment period. After the close of the public comment period, two supplemental letters responding to specific issues raised in comment letters were submitted to CZM.

This designation decision summarizes and responds to concerns and matters that were raised by commenters, and following careful consideration and analysis, formally designates the DPA boundary. On behalf of CZM, I want to thank everyone who participated in the boundary review process and acknowledge your valuable input.

II. Summary of Boundary Designation Report

As detailed in the November 23, 2015 boundary review designation report, CZM defined five planning units within the existing Chelsea Creek DPA that formed coherent areas with groups of parcels that are delineated by shared physical, geographical, and land use characteristics. These planning units were sized and configured in a manner that allowed for consideration of all relevant factors affecting *overall suitability* to accommodate water-dependent industrial use.

The Eastern Avenue North planning unit area did not meet the criterion for eligibility for review pursuant to 301 CMR 25.03(2) and was not further analyzed for substantial conformance with the criteria governing suitability to accommodate water-dependent industrial use. As such, the boundary of the Chelsea Creek DPA will not change in the area of the Eastern Avenue North planning unit.

The DPA regulations direct that an area of land or water reviewed under 301 CMR 25.00 shall be included or remain in a DPA *if and only if* CZM finds that the area is in substantial conformance with each of the criteria governing suitability to accommodate water-dependent industrial use. As detailed in the boundary designation report, CZM determined that although the Railroad South and the Railroad North planning units are in substantial conformance with the physical suitability criteria for possessing a topography that is conducive to industrial use, for exhibiting a use character that is predominantly industrial, and for being within reasonable proximity to established road/rail links and sewer/water facilities, the land areas for these two planning units do not possess a substantially developed shoreline which creates a functional connection to a DPA waterway. In the boundary review designation report CZM found that these two planning units did not meet the criteria for inclusion in a DPA boundary as required by 301 CMR 25.04(2)(a) and determined that they should be removed from the Chelsea Creek DPA.

III. Response to Comments on the Boundary Review Designation Report

Oral and written comments received on the designation report generally included those indicating concern with CZM's finding that areas would remain in the DPA and others expressing concerns regarding the proposed removal of areas from the DPA. Other comments included those in support of the recommendations of the designation report and others that did not take a position on the recommendations of the designation report but provided suggestions for future planning efforts in the area.

Several comments expressed the view that specific parcels within the Marginal Street planning unit did not meet all the suitability criteria required for inclusion in the DPA and should not remain in the DPA. As directed by the regulations and clearly articulated in the designation decision, CZM applies DPA boundary review criteria within the context of groups of parcels that form coherent planning units. This is because DPA-related attributes vary across different parcels, such that the combined characteristics of associated parcels in the same general vicinity are not reflected accurately in the characteristics of any single property. Planning units are evaluated for overall suitability to accommodate water-dependent industrial use. CZM affirms the finding that the Marginal Street planning unit as a whole meets the suitability criteria for inclusion in the DPA.

A few comments focused on an area of the Marginal Street planning unit that is located just downstream of the Chelsea Street Bridge (245 – 257 Marginal Street). Commenters suggested that this portion of the planning unit does not meet the criteria for a substantially developed shoreline which creates a functional connection to the waterway due to the narrowness of the navigation channel in the Chelsea River adjacent to this area. The shoreline along these properties consists of

engineered riprap and a 170 foot section of steel bulkhead. The comments stated that although the area has a connection to the waterway, it is not a functional connection because the addition of waterside infrastructure for vessel berthing and the docking of a vessel onsite would create navigational conflicts with vessels transiting Chelsea Creek or moored at the terminal across the waterway. With respect to this issue, CZM consulted with the United States Coast Guard (USCG) Sector Boston, the Massachusetts Bay Harbor Safety Committee, the Terminal Group (comprised of Chelsea Creek petroleum terminal operators), and the Boston Harbor Pilots Association to better understand the navigational safety of this area. The USCG indicated that although this point in the waterway is constrained by its narrow width and close proximity to the Chelsea Street Bridge, the development of a water-dependent industrial use in this location is not precluded. The construction of the new Chelsea Street Bridge allowed the USCG to remove in 2013 a prior safety zone restriction, and the movement of vessels in the area is now closely coordinated by pilots, captains, and terminal operators. Another commenter representing terminal operators of the port confirmed this and pointed to active management by port operators through a detailed schedule to coordinate the movements of vessels through Chelsea Creek. Similar to the current situation at the Sunoco Logistics in this area of the Creek, the potential berthing of vessels at this location would need to be incorporated into the existing vessel coordination system. Harbor pilots also stated that although the potential addition of other vessels would require additional coordination, it would not create an unsafe navigational situation. With this additional input, CZM affirms the finding that the Marginal Street planning unit has a developed shoreline that provides a functional connection to a DPA waterway and therefore meets the criteria at 301 CMR 25.04(2)(a) and will remain within the Chelsea Creek DPA.

Also with respect to the Marginal Street planning unit, comments raised concerns with the area remaining in the Chelsea Creek DPA because of the apparent lack of water-dependent industrial use opportunities. These comments stated that because specific parcels within the Marginal Street planning unit have not supported water-dependent industrial uses for a number of years, they should be removed from the DPA. In the designation report, CZM found that for the unit as a whole, water-dependent industrial uses have not occurred within the last five years, and as such, the Marginal Street planning unit was eligible for review. Along these lines, other commenters asserted that there has been interest expressed from potential water-dependent uses in these areas, including operations and storage of ship-based cargo and product as well as other port uses including a potential marine security station. While this planning unit was eligible for review, the absence of water-dependent industrial uses is not a standard for removal. Instead, removal from the DPA is governed by four criteria which assess a planning unit's capacity to accommodate water-dependent industrial uses, and CZM affirms the finding that the Marginal Street planning unit meets the four suitability criteria and will remain within the DPA.

A few comments acknowledged that several parcels of land within the Marginal Street planning unit are under agreement for the development of a hotel, and they put forward the opinion that these parcels therefore should not remain in the DPA. As previously stated within the designation report and elsewhere herein, the DPA boundary review process assesses planning units based on four criteria that focus on the ability of the area to support water-dependent industrial

uses. The status of a proposed development or business transaction is not a factor for the suitability determination in the DPA boundary review process. CZM recommends development opportunities within the DPA be carefully considered within the context of current state regulations, the finalization of this DPA boundary review process, and any potential waterfront planning processes that may be undertaken by the City, described later in this document.

A couple commenters stated the opinion that the Railroad South and Railroad North planning units should not be removed from the DPA because they have shorelines that could be developed and adapted for water-dependent industrial use in the future. In the designation report, CZM determined that in their current state, the shorelines of the Railroad South and Railroad North planning units do not contain substantially developed shorelines creating a functional connection to the waterway. The shoreline of the Railroad South planning unit is undeveloped and devoid of waterside infrastructure, comprised largely of rocky shoreline with remnant debris and fringing salt marsh and adjacent tidal flats. The shoreline of the Railroad North planning unit is largely bounded by a steel bulkhead, developed for the purpose of soil remediation and limiting the transport of contaminants to the estuarine environment. While this bulkhead abuts the intertidal zone in some areas, there are significant tidal flats and some salt marsh resources seaward of the bulkhead. Additionally, the maintained navigational channel in the Creek terminates downstream of the bulkhead. Further the areas is potentially restricted by an AUL and given the presence of the tidal flats and salt marsh habitat, dredging and construction of shoreline infrastructure is not reasonably practicable. CZM affirms that the Railroad South and Railroad North planning units do not meet the criteria for functionally developed shorelines according to 301 CMR 25.04(2)(a).

A few comments expressed concerns regarding the potential for non-DPA uses that would be incompatible with water-dependent industrial activities in the Railroad South and Railroad North planning units and elsewhere along the Chelsea Creek DPA. Specifically, commenters noted the potential for the development of recreational boating facilities to generate recreational vessel traffic in Chelsea Creek. As previously mentioned, the watersheet area of the DPA was excluded from the boundary review and as such the status of the watersheet in the DPA will remain unchanged. Chapter 91 Waterways regulations include strict standards that protect current water-dependent industrial uses in DPAs.

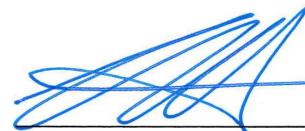
Other comments submitted focused on the importance of future planning efforts for the Chelsea Creek DPA for the viability of the DPA as a whole, ensuring the participation of the local environmental justice community in planning efforts, incorporating the effects of sea level rise, and utilizing the local DPA Master Plan/Municipal Harbor Plan process to increase supporting commercial uses and public access opportunities. CZM concurs with these comments and recommendations and will work to ensure that they are included in the scope of any local Municipal Harbor Planning process as described below.

CZM understands that the City of Chelsea is currently involved in a visioning process in partnership with the Metropolitan Area Planning Council. From this important initiative, the City will have a more complete understanding of the current and future demands on the Chelsea Creek

waterfront from those that reside, work, and operate businesses near and along the Chelsea Creek. With this foundation, we encourage the City to pursue a local Municipal Harbor/DPA Master planning process, for state approval pursuant to 301 CMR 23.00. The Municipal Harbor/DPA Master planning process would allow the community to seek flexibility in state regulations to allow greater opportunity for the strategic development of certain commercial and accessory uses in the DPA. Examples of such uses includes restaurants, retail, office space, and other business that can coincide with and support water-dependent uses. CZM is readily available to provide technical assistance to the City to support the development of a DPA Master Plan/Municipal Harbor plan for the Chelsea Creek DPA.

IV. Designation Decision

In conclusion, effective today, I affirm the findings and proposed boundary modifications in CZM's November 23, 2015 designation report and hereby determine that, pursuant to 301 CMR 25.03(5), the Chelsea Creek DPA boundary shall be modified, and that the Railroad South and Railroad North planning units will no longer be included in the Chelsea Creek DPA. The new boundary of the Chelsea Creek DPA is depicted on the attached map and available in electronic format from CZM.



Bruce K. Carlisle, Director

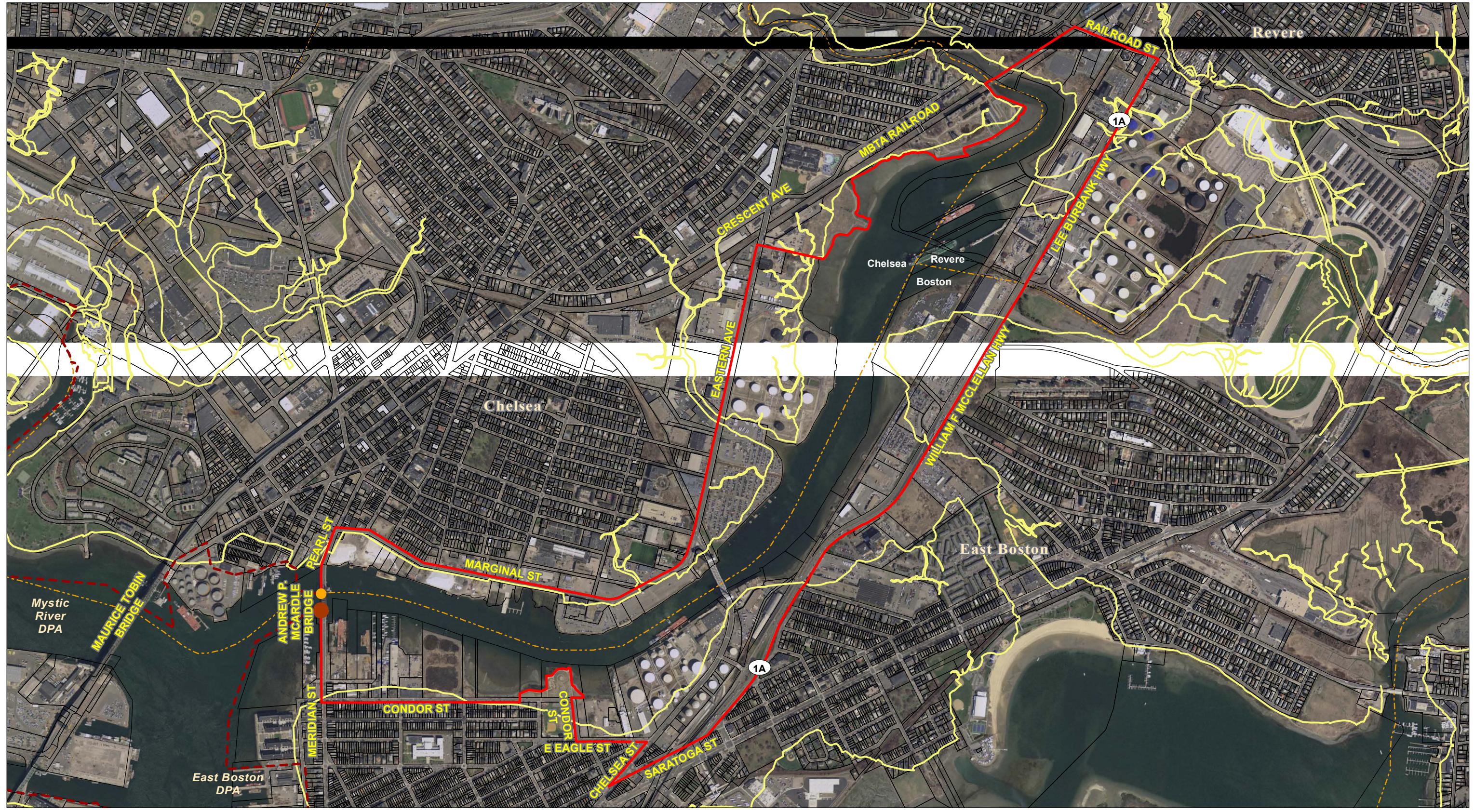


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Chelsea Creek

Designated Port Area (DPA)

For planning purposes only. In the event of conflict between
this map and the accompanying written description, CZM
shall issue a written clarification pursuant to the Designation
of Port Areas regulations at 301 CMR 25.00



Point of Beginning

Chelsea Creek DPA Boundary

Chapter 91 Presumptive Line

Assessor's Parcel

Point of Ending

Adjacent DPA Boundaries

Municipal Boundary

Base map: U.S. Geological Survey Color Ortho Imagery, 2013.
Map coordinate system: North American Datum of 1983,
Massachusetts State Plane Coordinate System,
Mainland Zone (FIPS zone 2001), meters.

0 1,000 2,000 3,000 4,000
Feet

April 2016

Chelsea Creek Designated Port Area

An area of land and water within Boston Harbor and proximate to the Chelsea Creek, located in the municipalities of (East) Boston, Chelsea, and Revere in the Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point formed by the intersection of the northerly line of the federal navigation channelⁱ and the westerly line of the Andrew P. McArdle Bascule Bridge in the municipality of Boston;

Thence northerly along the westerly line of the Andrew P. McArdle Bascule Bridge and continuing along the westerly line of Pearl Street to the intersection of the westerly line of Pearl Street and the northerly line of Marginal Street in the municipality of Chelsea;

Thence easterly along the northerly line of Marginal Street to the intersection of said line and the northwesterly line of Eastern Avenue;

Thence northeasterly along the northwesterly line of Eastern Avenue to the intersection of said line and the westerly projection of the southerly line of Parcel 50-7;ⁱⁱ

Thence easterly along the westerly projection of the southerly line of Parcel 50-7ⁱⁱ and continuing along the southerly line of said parcel to the southerly corner of said parcel;

Thence generally northeasterly along the easterly lines of Parcel 50-7ⁱⁱ to the easterly corner of said parcel;

Thence generally northeasterly and northwesterly along the generally southeasterly and northeasterly lines of Parcel 69-22ⁱⁱ to the northerly corner of said parcel;

Thence northwesterly to the easternmost corner of Parcel 77-5;ⁱⁱ

Thence northeasterly along the northwesterly line of the now or formerly Massachusetts Bay Transportation Authority (MBTA) railroad corridor to the intersection of said line and the northeasterly line of Railroad Street in the municipality of Revere;

Thence southeasterly along the northeasterly line of Railroad Street to the intersection of the southeasterly projection of said line and the southeasterly line of Massachusetts Route 1A (Lee Burbank Highway);

Thence southwesterly along the southeasterly line of Massachusetts Route 1A (Lee Burbank Highway/William F. McClellan Highway) to the intersection of said line and the southeasterly line of Saratoga Street in the municipality of Boston;

Thence southwesterly along the southeasterly line of Saratoga Street to the intersection of said line and the northwesterly line of Chelsea Street;

Thence northeasterly along the northwesterly line of Chelsea Street to the intersection of said line and the southerly line of East Eagle Street;

Thence westerly along the southerly line of East Eagle Street to the intersection of said line and the southerly projection of the westerly line of Condor Street;

Thence northerly along the southerly projection of the westerly line of Condor Street and continuing along the westerly line of said street to the intersection of the northerly projection of said line and the southerly line of Parcel 0103711001;ⁱⁱⁱ

Thence easterly along the southerly line of Parcel 0103711001ⁱⁱⁱ to the southeasterly corner of said parcel;

Thence northerly along the easterly line of Parcel 0103711001ⁱⁱⁱ to the intersection of said line and the shoreline;^{iv}

Thence northwesterly, northerly, westerly, southerly, and westerly along the shoreline^{iv} to the intersection of said shoreline and the westerly line of Parcel 0103711000;ⁱⁱⁱ

Thence southerly along the westerly line of Parcel 0103711000ⁱⁱⁱ to the intersection of the southerly projection of said line and the southerly line of Condor Street;

Thence westerly along the southerly line of Condor Street to the intersection of said line and the westerly line of Meridian Street;

Thence northerly along the westerly line of Meridian Street to the point of ending coincident with the point of beginning of the East Boston Designated Port Area Boundary, located on the westerly line of the Andrew P. McArdle Bascule Bridge at the intersection of the easterly line of Parcel 0103680001ⁱⁱⁱ and the southerly line of the federal navigation channel.ⁱ

The above described Chelsea Creek Designated Port Area is shown generally on a plan entitled: "Chelsea Creek Designated Port Area (DPA)," Scale: 1" = 1,050' +/-, Prepared by: Massachusetts Office of Coastal Zone Management, 251 Causeway Street, Suite 800, Boston, MA 02114, Date: April 2016.

Please note: In the event of conflict between this written description and the accompanying map, CZM shall issue a written clarification pursuant to the Designation of Port Areas regulations at 301 CMR 25.00.

ⁱ U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of Coast Survey (OCS). *Boston Inner Harbor* [nautical chart]. 52nd ed. 1:10,000. Chart #13272. Washington, D.C.: DOC, NOAA, NOS, OCS, Apr. 2012.

ⁱⁱ The City of Chelsea Assessor's parcel data were extracted from the Massachusetts Office of Geographic Information (MassGIS) Level 3 Assessors' Parcels data layer. The data were last updated for Chelsea in 2012 and were accessed September 28, 2015, from the MassGIS website (<http://www.mass.gov/anf/research-and-tech/it-service-and-support/application-serv/office-of-geographic-information-massgis/datalayers/l3parcels.html>). Please note:

These data were used for planning purposes only and should not be used for, and are not intended for, survey and engineering purposes. The data do not take the place of a legal survey or other primary source documentation.

ⁱⁱⁱ The City of Boston Assessor's parcel data were last updated for Boston in 2015 and were accessed October 2, 2015, from the City of Boston website (<http://www.cityofboston.gov/maps/>). Please note: These data were used for planning purposes only and should not be used for, and are not intended for, survey and engineering purposes. The data do not take the place of a legal survey or other primary source documentation.

^{iv} Refers to the present mean high water shoreline. See M.G.L. c. 91: Public Waterfront Act; 310 CMR 9.00: Waterways Regulations.