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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

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July 2, 1997

OFFICE OF THE
REGIONAL ADMINISTRATOR

John Terrill
NOAA, National Marine Fisheries Service
1 Blackburn Drive
Gloucester, Massachusetts 01930-2298

RE: Draft Restoration Plan Environmental Impact Statement/Environmental Impact Review for
the New Bedford Harbor Environment

Dear Mr. Terrill:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Draft Environmental Impact Statement (DEIS) for the New Bedford Harbor Restoration Plan in New Bedford, Massachusetts. We recognize the importance of the plan and appreciate your patience waiting for our formal review comments. We apologize for any inconvenience our delay may have caused.

As you know, discharges of PCB's into the New Bedford Harbor have resulted in significant environmental damage, economic loss and erosion of the quality of the human environment. EPA has been actively involved in ongoing efforts to remediate polluted portions of New Bedford Harbor and has encouraged and supported the New Bedford Harbor Trustee Council (NBHTC) efforts to initiate implementation of smaller-scale, short-term projects that catalyze natural resource restoration within the harbor. The DEIS describes a range of immediate, future and emergency actions, plans and studies intended to serve as the foundation for an estuary-wide plan to restore the affected portions of the harbor. Additionally, the DEIS chronicles the public process developed to generate a list of restoration projects to restore natural resources injured by PCB releases to the harbor. EPA actively supports the goals of the NBHTC to restore natural resources damaged by PCB's as well as human uses of those natural resources in the harbor. We believe there are many opportunities to restore a wide range of natural resources and uses in the harbor during and following completion of the cleanup of contaminated sediments within the harbor.

In general, EPA endorses the 12 preferred alternatives selected by the NBHTC for "near-term" implementation. We support implementation of preferred restoration alternatives that will maximize environmental benefits without conflicting with the ongoing harbor cleanup activities. In some cases, however, this may require that various restoration activities, or portions thereof, must be properly timed to be successful in the context of the overall cleanup process. We are also concerned that some of the restoration projects have the potential to resuspend highly

contaminated sediments. To that extent, EPA does not support activities that would increase or alter the spacial extent of PCB contamination as a result of resuspension. EPA has worked, and will continue to work, with the Trustees to ensure that none of the restoration work will interfere with or delay the Superfund remedy for the harbor. The FEIS should indicate that all activities conducted to support restoration projects will be coordinated through the EPA before they begin. Additionally, we believe that the phased approach (in conjunction with the cleanup) for restoration activities is a practical and effective strategy.

According to the DEIS, the NBHTC proposes to solicit ideas for additional future restoration actions, "periodically selecting restoration actions that are practicable, effective, and appropriate in the context of the ongoing cleanup." We continue to believe that the proposed Aquarium and Marine Science Center can directly benefit New Bedford Harbor through its ability to educate and build understanding and respect for natural resources; study how fisheries can be restored to the harbor; convert blighted waterfront property to clean, positive use; and improve access to the waterfront. We hope the NBHTC gives positive consideration to the Aquarium and Marine Science Center during its next round of restoration project evaluations.

In conclusion, for the reasons above, EPA has rated this EIS "LO-1 Lack of Objections-Adequate" in accordance with EPA's national rating system, a description of which is attached to this letter. This rating is based on EPA's evaluation of the information provided for the restoration plan and our conclusion that the FEIS should correct several inaccuracies and provide additional technical information associated with various alternatives. We believe our concerns can be resolved in the FEIS and we look forward to working with you to move the harbor restoration process along to the point of implementation. Please feel free to contact Timothy Timmermann of my staff at 617/565-3279 if you wish to discuss these comments further.

Sincerely,



Elizabeth A. Higgins
Director, Office of Environmental Review

Attachments

cc:

Congressman Barney Frank
David Dickerson, EPA ✓
Cynthia Catri, EPA
Ed Reiner, EPA
Phil Colarusso, EPA

Technical Comments

Section 1.2.2

While the cleanup is directed at removal of PCB contaminated sediment, EPA believes that the FEIS should reflect that the areas of highest metals contamination will also be removed.

Section 1.2.4

While it is true that the cleanup will leave behind sediment with PCB concentrations below 10 ppm in the upper harbor and below 50 ppm in the lower harbor, it is inaccurate to imply that the PCB and metal sediment contamination is the only problem in the harbor. Combined sewer overflows, which are not within the scope of the Superfund remedy, also contribute to natural resource damages.

Section 2.1.1

CERCLA allows EPA to recover response costs addressing the release or threat of release of hazardous substances which harm human health and the environment. This includes natural resources damages. It is unclear if this section of the DEIS addresses only an assessment of natural resources damages since the first paragraph includes in the assessment a consideration of the amount of money needed to cleanup the contamination. Remediation is a separate action from NRD restoration activities. The FEIS should clearly explain that EPA activities address risks posed to human health and the environment and the Trustees activities address natural resource damages.

Additionally, the definitions of "injury" and "site" include oil within their scope. This should be clarified if used in the context of EPA's activities under CERCLA since CERCLA's definition specifically excludes petroleum (42 U.S.C. §9601 (14)). EPA considers used oil (which contains hazardous substances) to be within the scope of CERCLA.

Section 2.1.1.2.1

The second paragraph of the DEIS indicates that CERCLA requires EPA to work with the U.S. Coast Guard to respond to and clean up all hazardous releases. The FEIS should reflect that the U.S. Coast Guard has been delegated to be the lead response agency for releases in maritime areas only.

Section 2.1.3.2

The FEIS should provide clarification to reflect that the January and May, 1992 Proposed Plan and Addendum were all one proposal for remediating the Harbor and Upper Buzzards Bay rather

than two separate phases of the cleanup.

Additionally, this section mischaracterizes EPA's actions in 1995. EPA did not revise the 1992 Proposed Plan through the community forum and then present a revised version in 1995. The revised Proposed Plan for ROD 2 was issued in November 1996. In April 1995, EPA outlined for the community forum (as well as for the public through cable and newspaper announcements) its conceptual modifications to the 1992 proposed plans based on public and resource agency comments received during the comment period held on the 1992 plans. This concept originally included a proposal to locate one of the CDF's in the cove area. Any reference to a 1995 version of a Proposed Plan should be deleted, since no such document exists.

Section 2.2.2

The Trustees have identified injuries best addressed through restoration and remediation. EPA disagrees that development options are limited by disposal of contaminated materials. In fact, EPA believes just the opposite; that development opportunities are available through the use of CDF's for things such as marine facilities, parks, and recreational use.

Section 2.2.7.4

The Trustees identified the Acushnet River north of Wood Street as a restoration area not likely to be affected by the cleanup. EPA would like to clarify that preliminary sampling of this area indicates that certain areas north of Wood Street are indeed contaminated above the 10 ppm TCL. These areas will be included in EPA's remedial program. EPA reminds the Trustees that a Feasibility Study Addendum for the hot spot sediments is expected to be issued in early 1998. Additionally, EPA intends to issue another decision document for the hot spot sediment currently stored in a CDF at Sawyer Street. An additional decision document will also be required for "phase 3" of the harbor cleanup for the outer harbor area.

Section 3.2.1.2

The second and third sentences of the first paragraph appear to contradict one another. The second sentence indicates that *in the outer harbor there is a net transport of sediments seaward*, while the third sentence says essentially the opposite. The FEIS should correct this inconsistency.

Section 3.5.1.2

While it is true that EPA has set an action level of 50 ppm below the Coggeshall Street bridge (PCB-contaminated sediment below that level will not be dredged), it is inaccurate to say the result is that significant PCB concentrations will remain in this part of the harbor. In fact, according to Figure 3-5, most of the remaining sediment concentrations fall either within the 1-10 ppm range or less than 1 ppm. In addition, should navigational dredging go forward in the harbor, contaminated sediment within the channel will be removed thereby further reducing the

amount of contaminated sediment below the Coggeshall Street bridge.

Section 4.3.2.2.2

The Riverside Park Belleville Avenue Recreational Marine Park project would create an inner harbor coastal park that may include a boat ramp or pier for recreational use, marsh restoration or other enhancement of coastal habitat. The DEIS documents that park construction or wetland restoration would "have to wait until cleanup of the cove, and possibly the Upper Estuary, is completed." This project borders a cove which is presently dominated by fringing salt marsh and intertidal mudflat all of which is targeted for dredging. This cove represents one of the greatest in-harbor opportunities for salt marsh and mudflat restoration. While EPA itself will replace some natural habitat lost as a result of dredging, the Trustees should also consider the value of this area for salt marsh and mudflat restoration. Plans for a boat ramp or pier at this location may conflict with such natural habitat restoration objectives.

EPA would like to reiterate that close coordination and control of timing must be brought to bear for this proposed project. EPA agrees that the concept of a marine related park in this area is a good one, especially if either of the surrounding CDF's B or C can be linked into a park system. The potential problem we see, however, is that such a park would inevitably attract people to the areas containing contaminated sediments. Therefore, EPA supports the DEIS statement that creation of the park would wait until the upper harbor dredging is completed (remedial dredging will proceed north to south) or EPA believes that the park should be constructed in such a way as to restrict access to the shore (e.g., using hedgerows or fences) until the dredging is complete.

Section 4.2.1

See comment to section 2.2.7.4 regarding remediation above Wood Street Bridge.

Section 4.3.1.1

The FEIS should note that in addition to EPA's proposal to remove portions of the marsh which exceed 50 ppm PCB's, EPA also proposes to reestablish the saltmarsh in those areas destroyed by dredging.

Section 4.3.3.2.1 Hurricane Barrier Box Culvert

The rationale section for this restoration proposal in the DEIS incorrectly references EPA's measurement of PCB flux, and the overall discussion of existing impacts and potential improvements is speculative in nature. The 0.5 lb/d flux rate referenced here is the flux from the upper to the lower harbor (using EPA's definitions) **as measured at the Coggeshall Street bridge** during 1994 and 1995. Thus the barrier is not a significant factor in this 0.5 lb/d flux rate, and the actual flux from the lower to the outer harbor (as measured at the hurricane barrier) has

historically been much lower. Before any new culverts are installed, EPA believes that the water quality impacts of such an undertaking should be thoroughly studied. Perhaps the academic community could be called upon to study or model these impacts. At a minimum, EPA suggests coordination with the various Buzzards Bay stakeholders. If it is determined that a new culvert would be an overall benefit, EPA agrees that it should be installed after the ROD 2 dredging is complete.

Section 4.3.5

Although we support the Herring Run Restoration project, we are concerned that fish may accumulate PCB's while traveling through the harbor. The FEIS should explain how the restoration project will be implemented or delayed (through institutional controls or otherwise) until the harbor sediments are cleaner.

Sections 4.3.5.2.1 and 4.3.7.1.2

EPA reiterates its concern for close coordination between the Trustees and EPA when planning and conducting shellfish surveys or transplants. EPA believes that more information on the degree of sediment resuspension from power dredges is required before use of this type of equipment is allowed in areas of sediment with high PCB contamination. EPA also reminds the Trustees that two localized areas of high PCB contamination exist south of the hurricane barrier (near the Cornel-Dubilier facility). Care should be taken when performing shellfish surveys or relays in these areas as well.

Section 5.1

The DEIS incorrectly states that "some of the CDF capacity will be reserved for sediments from navigational dredging projects." More correctly, capacity is reserved for an interim cap to cover the contaminated sediments during initial settlement. Depending on a number of logistical and cost considerations, this interim cover may or may not be made up of navigational sediments. The report also states that the CDF's may be usable as wharves. EPA notes the potential for a number of other reuse options, including some that may be of interest to the Trustees (e.g., shoreline open space, bird sanctuaries). EPA believes that at least parts of CDF's A, B and C should be reserved for natural resource enhancements, including the intertidal and subtidal areas of the seaward facing berms and looks forward to additional discussions with the Trustees concerning this matter.