

C-34-10-4-485

TO: JOE YEASTED

DATE: OCTOBER 31, 1984

FROM: CAROL HUDAK *CAH/cto*

**SUBJECT: REQUIREMENTS THAT HAVE TO BE MET BEFORE
A PERMIT IS GRANTED FOR NEW BEDFORD
REMEDICATION
PROJECT NO. S725.16**

Superfund Records Center

SITE: New Bedford

BREAK: 4.1

OTHER: 47260

The following agencies will have to be contacted concerning New Bedford remediation plans:

- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency
- U.S. Council on Environmental Quality (if needed to settle any disputes between federal, state or local regulatory agencies)
- U.S. Fish and Wildlife Service
- The National Marine Fisheries Service
- Mass. Coastal Zone Management Group
- Mass. DEQE, Department of Water Pollution Control
- Mass. DEQE, Division of Wetlands and Waterways
- Mass. DEQE, Division of Solid Waste
- Mass. DEQE, Division of Hazardous Waste
- Mass. Environmental Policy Group of NEPA (National Environmental Policy Act of November 29, 1978).
- Local Conservation Commission
- Local Planning Commission

The following guidelines and regulations are applicable to dredging and filling alternatives discussed in the Draft Feasibility Study of Remedial Action Alternatives:

- 1) The National Environmental Policy Act of November 28, 1978, Title 40, Parts 1500-1508 (NEPA)
- 2) Army Corps of Engineers Permit Program Regulations 33CFR 320 through 330, July 22, 1982.
- 3) US EPA Guidelines for Specification of Disposal Sites for Dredged or Fill Material 40 CFR, Part 230, December 24, 1980.
- 4) Sections 401 and 404 of the Clean Water Act of 1972
- 5) Marine Protection, Research, and Sanctuaries Act of 1972 (Section 103)
- 6) Rivers and Harbors Act of 1899, Section 10

TO: JOE YEASTED
FROM: CAROL HUDAK
OCTOBER 31, 1984 - PAGE TWO

- 7) Fish and Wildlife Coordination Act and Reorganization Plan No. 4
- 8) Coastal Zone Management Act of 1972
- 9) Massachusetts General Laws Chapter 91
- 10) Massachusetts General Laws Chapter 131, Section 40, Wetlands Protection Act

Permits to discharge dredge or fill material into the waters and/or wetlands of the US have to be obtained from the District Engineer, Army Corps of Engineers (404 permit). Federal, state, and local regulatory agencies review the project at the same time as the Corps. In addition to review comments from the public and cooperating agencies, the Corps requires a Water Quality Certification (issued by the Mass. DEQE Division of Water Pollution Control), a Massachusetts General Law Chapter 91 permit (DEQE Division of Wetlands and Waterways) and a Consistency Certification from the Mass. Coastal Zone Management Group. An applicant would file a form, ENG Form 4345 with the Corps to start the review process.

To obtain a Water Quality Certification, the applicant has to submit a form to the Division of Water Pollution Control (DWPC). The DWPC reviews historical analyses or will negotiate with the applicant to develop a sampling program. A Part I application requires standard aerobic Elutriate testing (agitating sediments). A Part II application will require more specific sampling.

A Consistency Certification is a document which shows how the applicant will meet the policies of the Coastal Zone Management Group. In addition to this certification, the Group can require other measures, depending on the chosen alternative.

Applications to the Corps of Engineers must include the following information:

- 1) Complete description of proposed activity including necessary drawings.
- 2) Sketches or plans sufficient for public notice.
- 3) Location, purpose, and intended use of the proposed activity.
- 4) Scheduling of the activity.

TO: JOE YEASTED
FROM: CAROL HUDAK
OCTOBER 31, 1984 - PAGE THREE

- 5) Names and addresses of adjoining property owners.
- 6) Location and dimensions of adjacent structures.
- 7) List of authorizations required by other Federal, interstate, state or local agencies.
- 8) All approvals received or denials already made.
- 9) Description of the type, composition and quantity of material to be dredged and method of dredging.
- 10) Site and plans for disposal of the dredged material.
- 11) Use of specific structures to be erected on the fill.
- 12) Required to demonstrate that an impoundment complies with established state dam safety criteria or designed by qualified people.

The district engineer will also require either an environmental assessment or an environmental impact statement (EIS). He will prepare a Statement of Findings (SOF), or where an EIS has been prepared, a Record of Decision (ROD). The district engineer may also require the permittee to post a bond.

NEPA requires that the environmental effects of a proposed activity must be compared to economic and technical analyses. It also requires that the lead and cooperating agencies prepare the EIS, with the lead agency retaining responsibility for the statement. The lead agency may designate another group to prepare an EIS.

The lead agency will scope out what will be required in a specific EIS and may set time and page limits. (At this time I am uncertain whether the Army Corps or the Massachusetts Environmental Policy Group will act as the lead agency on this project).

NEPA has specified a standard format for an EIS, which should include the following sections:

- a. Cover sheet
- b. Summary
- c. Table of Contents
- d. Purpose of and need for action
- e. Alternatives including proposed action

TO: JOE YEASTED
FROM: CAROL HUDAKL
OCTOBER 31, 1984 - PAGE FOUR

- f. Affected environment
- g. Environmental consequences
- h. List of preparers
- i. List of agencies, organizations, and persons to whom copies are sent.
- j. Index
- k. Appendices

The Environmental Consequences section is one of the most important parts of the document, and according to NEPA, should include:

- 1) Environmental impacts of the proposed action
- 2) Any adverse environmental effects which can't be avoided should a proposal be implemented.
- 3) Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity.
- 4) Any irreversible or irretrievable commitments of resources
- 5) Direct and indirect effects and their significance.
- 6) Possible conflicts between the proposed action and the objectives of federal, regional, state and local land use plans, policies, and controls for the area.
- 7) Energy requirements and conservation potential.
- 8) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
- 9) Urban quality, historic and cultural resources

A cost-benefit analysis should be referenced or appended if it is appropriate.

The List of Preparers section in the EIS should include a list of names and the qualifications of the persons primarily responsible for preparing the EIS.

The agencies will circulate the entire or a summary of the draft and final EIS. It should be circulated to any federal agency which has jurisdiction over any environmental impact involved, federal, state and local agencies authorized to develop and enforce environmental standards, and any organization or agency requesting it.

There should be a comment period for the draft and final EIS as well as public notices. After the comment period, each agency will prepare a concise public record of decision.

In evaluating a permit, the District engineer shall make the following determinations:

- 1) Determine the nature and degree of effect of the proposed discharge on the disposal site substrate.

TO: JOE YEASTED
FROM: CAROL HUDAK
OCTOBER 31, 1984 - PAGE FIVE

- 2) Determine the effect the discharge will have on water, current patterns, circulation, and normal water fluctuation.
- 3) Determine if there will be changes in kinds and concentrations of suspended particulate/turbidity in the vicinity of the disposal site.
- 4) Determine the degree to which contaminants will be introduced, relocated, or increased.
- 5) Determine effects on the structure and function of the aquatic ecosystem and organisms

The District Engineer may also require biological, chemical, and physical testing of the dredged or fill material. Existing information can be used and may make new testing unnecessary.

Attached to this memo is an Army Corps of Engineers permit program guide, Chapter 91 Amendments, federal and state coastal zone management program policies, and sample consistency letters.

Once a Notice of Intent is filed with the local Conservation Commission, the Commission contacts the appropriate state agencies and the Corps.

CAH/cts