

# **SUMMARY OF UPDATES DOCUMENT**

**State Enhanced Remedy in New Bedford, South Terminal**

Massachusetts Department of Environmental Protection

January 18, 2012

## INTRODUCTION

The attached document represents a comprehensive submittal to the United States Environmental Protection Agency (“EPA”) for the construction of a Confined Disposal Facility (“CDF”) at South Terminal in New Bedford. The Commonwealth, through the Massachusetts Department of Environmental Protection (the Department) requested that EPA include an expansion of the State Enhanced Remedy of the New Bedford Harbor (“SER”) to allow the construction of three CDFs in a forthcoming Explanation of Significant Differences (“ESD”) that EPA is planning to issue for the New Bedford Harbor Superfund Site<sup>1</sup>. In response to the Department’s initial request, EPA verbally notified the Department that EPA considers the proposed South Terminal CDF to be covered by the initial Record of Decision<sup>2</sup> and that it could be included in the SER without need for inclusion in the ESD. However, EPA has noted that the proposed project must still meet all substantive requirements and evaluations that would normally be conducted for this proposal as part of the regulatory review and permitting process.<sup>3</sup> The EPA has provided guidance regarding the information required to conduct this review. The overall purpose of the attached report, which was initially submitted in August of 2010<sup>5</sup>, and has been revised multiple times via additional submissions to USEPA between August 2010 and March 2011 (with USEPA’s most recent comments on the project submitted to the Commonwealth in June of 2011), is provided in this revised and restated format to provide EPA with the information that it has requested to complete its review.

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<sup>1</sup> Letter dated January 20, 2010 to Mr. Curtis Spalding, Regional Administrator, EPA Region 1, from Mr. Gary Moran, Deputy Commissioner, MADEP.

<sup>2</sup> Record of Decision, EPA Region 1, September, 1998

<sup>3</sup> Letter dated February 11, 2010, from Mr. Curtis Spalding, Regional Administrator, EPA Region 1, to Mr. Gary Moran, Deputy Commissioner, MADEP.

<sup>5</sup> Report dated August 25, 2010, titled “State Enhanced Remedy in New Bedford, South Terminal”, MADEP.

## ***SUMMARY OF UPDATES***

A number of updates have been made to the document since it was first submitted to USEPA on August 25, 2010. Because the project is presented as a singular submittal, with no comparison to earlier submittals, the following is a list of changes that have been adopted within the document:

- 1. Combining of Documents Issued to Date** – The submission represents a combination of submittals that have been issued to USEPA since August 25, 2010. More specifically, the document is a combination of the following documents:
  - a. August 25, 2010 Submittal to USEPA*
  - b. September 21, 2010 Avian Assessment*
  - c. September 24, 2010 Response to USEPA Comments on the August 25, 2010 Submittal to USEPA*
  - d. November 16, 2010 Responses to Additional USEPA Questions (Originally Submitted Via E-Mail to USEPA)*
  - e. March 11, 2011 Conceptual Mitigation Plan*

Where possible, the original structure of the August 25, 2010 document has been kept intact. The most recent and updated information (provided in the subsequent submittals) has superseded the older information from the original August 25, 2011 document, where applicable.

- 2. Appendices and Figures Are Listed Below the Table of Contents** – Due to the large quantity of Appendices, these have been tabulated and listed in a convenient location for your reference.
- 3. Fill for the CDF** – It is currently anticipated that fill from navigational dredging will be utilized for fill within the CDF. Section 2.5 (Linkages of South Terminal CDF to the State Enhancement) has been updated to reflect this reality.
- 4. Temporary Bridge Removed, Easement Corridor Added** – The bridge previously shown on drawings connecting the southern portion of the South Terminal CDF to the northern portion of the South Terminal CDF has been removed and replaced with an easement that runs from Blackmer Street to Gifford Street. Although not directly impacting delineated Paleosol areas (as described below), a proposed easement has replaced the need for a bridge, to address anticipated concerns from the Tribal Representatives concerning the historical and culturally sensitive areas. Removal of the bridge will also eliminate impacts from bridge pilings and potential shading impacts. The easement (mentioned as a potential future addition in the August 25, 2010 submission) will allow wind blades to be transported to the south without the impacts associated with

the temporary bridge construction and removal. This information is outlined within Section 4.1.1.

- 5. Change in Dredge Footprint** – Additional information regarding the requirements of suitable channel widths, orientations, and navigational requirements has been gathered since the original dredge footprint was submitted in August 25, 2010. As a result of this new information, the Commonwealth has determined that certain alterations to the dredge footprint are needed to ensure that the future facility can adequately accommodate future vessels at the facility. The following changes have been made:
- a. *Channel width has been increased to 175 feet from 150 feet to allow for drift associated with wind, current, wave action and navigational error as vessels navigate to the facility.*
  - b. *Tug channel has been added to allow for tug assists as vessels enter and exit port.*
  - c. *Channel has been re-aligned such that a turning basin in front of New Bedford State Pier will allow for direct navigation from the Federal Channel to the South Terminal Facility.*
  - d. *Depth of the shallow-draft areas has been reduced from -20 MLLW to -14 MLLW.*
  - e. *Length of deep-draft area at the quayside has been increased from 500 linear feet to 600 linear feet.*

This new information is both applicable to international vessels anticipated for use in offshore renewable energy and future shipping at the new facility. Information regarding the changes is included within Section 4.1.2.

- 6. Addition of CAD Cell** - Previous submittals were not clear if a CAD Cell would or would not be constructed as part of this project. Construction of a CAD Cell has been added to the project. At present, the Commonwealth anticipates that contaminated material from the Dredge Footprint will be placed within the CAD Cell for disposal, rather than reused within the CDF. Information regarding the CAD Cell is included in Section 4.1.3 and Section 5.10.
- 7. Maintenance Dredging of the Federal Navigation Project** – Maintenance dredging of the Federal Navigation Project may be required as part of this project, as the planned dredging by USACE may not be completed prior to the start of this project. The maintenance dredging is discussed within Section 4.1.2 and Section 5.2.
- 8. Re-Alignment of the Gifford Street Boat Ramp Channel** – Construction of the facility will require re-alignment of the Gifford Street Boat Channel to maintain recreational boating access for the City of New Bedford. This is discussed within Section 4.1.4.
- 9. Mooring Mitigation** – Maintenance dredging of a portion of the Gifford Street Mooring Basin is proposed to compensate for moorings that will be lost due to construction of the South Terminal CDF Channel and Boat Basin. This is discussed within Section 4.1.5.
- 10. Additional Information Supporting Future Shipping Usage of South Terminal** – Additional information has been added to the document to support future use of the

facility as a cargo terminal. It is currently anticipated that (other than for the first offshore renewable energy use of the facility) that offshore renewable energy use, CAD Cell sand storage, and shipping can take place simultaneously at the facility in the future. Information on future shipping usage of South Terminal is included within Section 4.2.

- 11. Additional LEDPA Information** – Additional information is submitted within Section 4.3, such that the South Terminal CDF is presented as both the only practicable location that meets the Project Purpose and the only practicable design that meets the Project Purpose.
- 12. Additional Characterization Data** – Data collected since December 2010 has been incorporated into the document in a new section entitled “CHARACTERIZATION OF PROPOSED PROJECT AREA”, inserted as Section 5.0. This section contains the following:
  - a. Results of sediment sampling conducted to date.*
  - b. Results of USACE sediment sampling in the Federal Channel.*
  - c. Results of water column sampling conducted to date.*
  - d. Results of an upland geophysical investigation.*
  - e. Results of upland sampling and assessment.*
  - f. Results of background air sampling.*
  - g. Results of hydraulic conductivity sampling.*
- 13. Archeological Investigations Conducted to Date** – Five archeological investigation reports previously submitted to USEPA under separate cover are attached within Section 5.0 of the new report. These reports outline upland, intertidal and subtidal archeological investigations, as well as more detailed investigations into a shipwreck target. These investigations resulted in the delineation of two Paleosol areas and a shipwreck. SHPO and MBUAR have concurred with the Commonwealth’s conclusion that the shipwreck does not meet the Criteria of Eligibility for listing in the National Register of Historic Places (36 CFR Part 60), and that the site lacks integrity, and that no further investigation is warranted. The discovery of the Paleosol has prompted the Commonwealth to confer with Tribal Representatives and to re-design the southern wall of the footprint and to eliminate the bridge from the previous submittal, to avoid potential impact to the area.
- 14. Communication with Representatives of the Wampanoag Tribes** – Also attached within Section 5.0 of the report is a summary of contact with representatives of the Wampanoag Tribes completed to date.
- 15. Reduction in Filling** – An additional evaluation of opportunities to avoid or minimize impacts has resulted in a net reduction of 0.67 acres of filling (from 4.73 acres to 4.06 acres) of shallow subtidal areas associated with the South Terminal CDF project.
- 16. Changes in Impacts to Resource Areas** – Do to the changes in the filled area footprint, the dredge footprint, and the confirmation that a CAD Cell will be constructed, the following is an updated list of the resource areas that will be impacted via construction of

the project (the increase or decrease in these numbers from the August 25, 2010 submittal is in parentheses).

- ***Permanent Impacts***

Permanent direct impacts to existing resource areas are as follows:

- a. Filling of 1.43 acres of intertidal area (no change),
- b. Filling of 4.06 acres of shallow, near-shore sub-tidal area (decrease of 0.67 acres);
- c. Filling of 0.18 acres of salt marsh (no change),
- d. Dredging of 3.68 acres of near-shore, subtidal area from -1 to -6 MLLW to between -30 and -32 MLLW (Quayside Areas – no change).
- e. 4.43 acres of near-shore, subtidal area will be dredged to -14 MLLW (Quayside Areas – no change in area, but elevation increased from -20 MLLW to -14 MLLW).
- f. Dredging of 4.03 acres of near-shore, subtidal area from -5 to -14 MLLW -14 MLLW (Tug Channel – increase of 3.14 acres).
- g. Dredging of 8.76 acres of near-shore, subtidal area from -4 to -6 MLLW to -45 MLLW, but which will be subsequently filled and capped (CAD Cell – increase of 8.76 acres).

- ***Temporary Impacts***

Temporary direct impacts to existing resource areas are as follows:

- a. Dredging of 8.01 acres of near-shore, subtidal area from -4 to -6 MLLW to between -6 and -7 MLLW (Gifford Street Channel Re-Alignment and Mooring Mitigation Areas – increase of 8.01 acres).
- b. Dredging of 7.01 acres of subtidal area from -20 to -25 MLLW to -30 MLLW (South Terminal Channel – increase of 0.72 acres).
- c. Dredging of 19.6 acres of subtidal area from -26 to -30 MLLW to -30 MLLW (Maintenance Dredging of Federal Navigation Project – increase of 19.6 acres).

## **Summary of Changes**

- **Removal of bridge (elimination of impacts from pilings and potential shading impacts).**
- **Decrease of filled area by 0.67 acres.**
- **Increase of elevation of 4.43 acres of dredging from -20 MLLW to -14 MLLW.**
- **Increase in 3.14 acres of dredging to -14 MLLW.**
- **Increase of 0.72 acres of dredging from -20 to -25 MLLW to -30 MLLW.**
- **CAD Cell Construction, Filling, and Capping - Permitted under DMMP process.**
- **Maintenance Dredging of Federal Navigational Project – Scheduled to be completed in near future by USACE.**
- **Increase in 8.01 acres of maintenance dredging from -4 to -6 MLLW to -6 to -7 MLLW, for mooring mitigation and Gifford Street Channel Re-Alignment.**

**17. Updates to Conceptual Mitigation Plan -** The previous mitigation section has been superseded with the Conceptual Mitigation Plan submitted on March 11, 2011, and the comments submitted by USEPA on June 22, 2011 have been addressed within the Mitigation Section (Section 7.2 and Section 7.3) of the new document.

**18. Increase in Size of Mitigation Areas –** The mitigation proposed for the Winter Flounder Mitigation Area has been increased in size from 13.73 acres to 17.73 acres (increase of 4 acres). The intertidal and subtidal capping outside of the Hurricane Barrier have also been increased in size from 3 acres to 3.47 acres (intertidal area – increase of 0.47 acres) and from 7 acres to 10.91 acres (subtidal area – increase of 3.91 acres), respectively.