

**From:** Sneeringer, Paul J NAE  
**To:** ["Ann Williams"](#)  
**Cc:** ["walshrogalski.william@epamail.epa.gov"](mailto:walshrogalski.william@epamail.epa.gov); [Mike Marsh](#); [Cynthia Catri](#); [Elaine T Stanley](#)  
**Subject:** RE: New Bedford South Terminal - Floodplain Management Review (UNCLASSIFIED)  
**Date:** Thursday, June 14, 2012 1:57:00 PM  
**Attachments:** [FW Flood Storage Mitigation Plan \(UNCLASSIFIED\).msg](#)  
[FW Potential Hurricane Barrier Impact \(UNCLASSIFIED\).msg](#)

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Classification: UNCLASSIFIED  
Caveats: NONE

Ann:

Based upon the a series of e-mails that Mike Keegan has forwarded me, it appears by the fall of 2010 Apex had begun to coordinate basic information regarding the South Terminal Project and associated mitigation with Corps personnel including Mike Keegan and individuals from the Corps Levee Safety Office. It appears that at that time the Corps requested additional information from Apex for potential impacts to the New Bedford Hurricane Barrier associated with the adjacent navigation dredging (see attached Potential Hurricane Barrier Impact e-mail) and requesting flood storage mitigation for the flood storage lost as part of the South Terminal confined disposal facility fill (see attached Flood Storage Mitigation Plan e-mail). I am not sure if the level of design for the successional marsh (swale) mitigation work was adequate at this time for the Corps to delineate potential impacts from this work on the New Bedford Hurricane Barrier.

On May 25, 2012, I coordinated copies the plan drawings for the South Terminal Project mitigation work with Mike Keegan as well as Mike Bachand and Scott Michalak of the Corps Levee Safety Office. On June 1, 2012 Mike Bachand send me a determination indicating that the Successional Marsh (Swale) Mitigation work would require a modification to the interior drainage system of the New Bedford Hurricane Barrier and that this work will require a letter of acceptance from the Corps. Mike Bachand also provided a list of additional detailed information that the Commonwealth needs to provide so that the Corps can complete its review of this issue. I forwarded this determination to members of the EPA South Terminal team on June 1, 2012. Mike Keegan subsequently forwarded this determination letter to Apex as well as Paul Craffrey of Massachusetts DEP on June 7, 2012 (see attached South Marine Terminal Project in New Bedford, MA - Proposed Mitigation e-mail).

Feel free to contact me if you have any questions about the information presented in this e-mail.  
Thanks.

Paul Sneeringer  
(978) 505-9216

-----Original Message-----

From: Ann Williams [<mailto:Williams.Ann@epamail.epa.gov>]  
Sent: Thursday, June 14, 2012 12:45 PM  
To: Sneeringer, Paul J NAE  
Subject: Re: New Bedford South Terminal - Floodplain Management Review (UNCLASSIFIED)  
Importance: High

Paul -- Can you tell me when the Corps letter regarding the hurricane barrier was provided to the State and when the issue was first raised to the State's attention?  
Thanks,  
Ann

Inactive hide details for "Sneeringer, Paul J NAE" ---06/08/2012 04:04:55 PM---Classification: UNCLASSIFIED Caveats: NONE  
"Sneeringer, Paul J NAE" ---06/08/2012 04:04:55 PM---Classification: UNCLASSIFIED Caveats: NONE

From: "Sneeringer, Paul J NAE" <Paul.J.Sneeringer@usace.army.mil>  
To: Jackie Leclair/R1/USEPA/US@EPA  
Cc: Carl Deloi/R1/USEPA/US@EPA, Mike Marsh/R1/USEPA/US@EPA, Ann Williams/R1/USEPA/US@EPA, Cynthia Catri/R1/USEPA/US@EPA  
Date: 06/08/2012 04:04 PM  
Subject: New Bedford South Terminal - Floodplain Management Review (UNCLASSIFIED)

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Classification: UNCLASSIFIED  
Caveats: NONE

Jackie:

Enclosed for your records are some of the major recent correspondences regarding the Executive Order 11988 (Floodplain Management) review of the South Terminal Project in New Bedford. First of all, enclosed is a copy of EPA's 1985 Policy Document on Floodplain and Wetland Assessments for CERCLA Actions. This attached file also includes EPA's implementing regulations from Appendix A to Part 6. Secondly, I am forwarding you Cindy Catri's initial comments on the Corps recommendations regarding the Successional Marsh (Swale) Mitigation Project as well as the potential loss of flood storage associated with the South Terminal Project. Finally, I am forwarding you a copy of the Corps Levee Safety Office's recommendations regarding reporting requirements for the Successional Marsh (Swale) Mitigation work adjacent to the New Bedford Hurricane Barrier.

Feel Free to contact me if you have any questions regarding any of this information. Thanks.

Paul Sneeringer  
(978) 505-9216

-----Original Message-----

From: Cynthia Catri [<mailto:Catri.Cynthia@epamail.epa.gov>]  
Sent: Tuesday, June 05, 2012 8:00 AM  
To: Sneeringer, Paul J NAE; Ann Williams; Keegan, Michael F NAE  
Cc: ElaineT Stanley  
Subject: NBH Enhancement Floodplains

Attached is the Wetland/Floodplain policy we follow when issuing proposed plans and decision documents for Superfund activities. At today's monthly enhancement meeting with the resource agencies EPA can consult with the Corps about its concerns and recommendations. While we won't be able to provide an answer today, we can bring the issue back to the South Terminal group to discuss.

Classification: UNCLASSIFIED  
Caveats: NONE

[attachment "1985 Policy on Wetland and Floodplain Ex. Order in CERCLA actions.pdf" deleted by Ann Williams/R1/USEPA/US]

----- Message from "Sneeringer, Paul J NAE" <Paul.J.Sneeringer@usace.army.mil> on Fri, 8 Jun 2012 15:25:59 +0000 -----

To:

"Keegan, Michael F NAE" <Michael.F.Keegan@usace.army.mil>, "Michalak, Scott C NAE" <Scott.C.Michalak@usace.army.mil>, "Bachand, Michael L NAE" <Michael.L.Bachand@usace.army.mil>

cc:

Cynthia Catri <Catri.Cynthia@epamail.epa.gov>, ElaineT Stanley <stanley.elainet@epamail.epa.gov>

Subject:

FW: South Terminal Project in New Bedford, MA - EPA's initial comments with regards to the Corps concerns with the successional marsh (swale) mitigation and potential loss of flood storage area (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mikes and Scott:

Enclosed for your information is Cindy Catri of EPA's initial response to the Corps concerns with the successional marsh (swale) mitigation and the potential loss of New Bedford Harbor flood storage areas associated with the South Terminal Project in New Bedford, Massachusetts. Note: Discussions on both of these issues are on-going.

I received an electronic copy of the DRAFT construction drawings for the South Terminal Project from Apex yesterday. I will forward you copies of the plan view and cross-sections for the successional marsh mitigation project later today for your review. Feel free to contact me if you have any questions regarding any of the information in this e-mail. Thanks.

Paul Sneeringer  
(978) 505-9216

-----Original Message-----

From: Cynthia Catri [<mailto:Catri.Cynthia@epamail.epa.gov>]

Sent: Wednesday, June 06, 2012 8:54 PM

To: Sneeringer, Paul J NAE; Ann Williams; ElaineT Stanley

Subject:

At yesterday's SER meeting, Mike Keegan from COE raised two issues that I'd like to discuss with both of you -- I'm not sure who is writing these sections:

1. Regarding the swale mitigation, COE says U.S.C. Section 408 requires (paraphrasing) COE to issue a letter of approval for any action that affects a structure constructed by the COE. The COE feels it does not have enough information about whether or not work in the swale affects the inner harbor drainage design incorporated into the hurricane barrier. Apex is to produce detailed engineering drawings, an analysis of residual risk, info about citizen access to the barrier and other items before it can determine the swale mitigation effects on the barrier. I haven't read section 408 yet but my feeling is that a letter of approval is a procedural step, much like a permit, that is not necessary to secure. If the state wants to get one, it is up to them and we will not get involved. If there are substantive environmental standards in 408 that must be met, we should be identifying it as an ARAR.
2. Regarding floodplains, Mike explained the Corps concerns about the project's impacts on floodplains. Within the last 6 months, COE recertified the hurricane barrier. Because the City of NB and Town of Fairhaven (both of which have some responsibilities for portions of the barrier) didn't have the budget to do their share, the COE paid for it all -- \$1 million. The recertification goes to FEMA which depends on the recertification for floodplain management and uses it as a basis to set floodplain insurance rate maps. There is concern that the impacts to floodplains from the proposed south terminal project will now skew the basis for flood protection afforded by the barrier unless mitigation occurs. He agrees that it is EPA's call here and the Corps is making a recommendation. He also mentioned that the restoration of Marsh Island and the reduction of the area at the Steamship Authority created additional flood storage capacity in the inner harbor which could be used as mitigation measures.

Last I remember, Matt was writing the Floodplain Ex. Order part but I'm not sure who is doing that now.

Can we discuss this issue and whether or not we should ask COE to put its recommendation in writing. Also, can Marsh Island and Steamship Authority modification count?

Superfund actions must meet the substantive requirements of the Floodplain Management Executive Order (E.O. 11988) and Appendix A of 40 CFR Part 6. The Wetlands/Floodplain policy I forwarded to you earlier describes how we comply with the EO and Appendix A. Under the Floodplain Executive Order 11988, floodplain requirements focus on avoiding to the extent practical the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. There are prescribed steps in the guidance we must follow in Superfund for this analysis so we need to be sure the process at South Terminal is consistent with the guidance. (Note that GE and Centerdale Manor are also currently dealing with this issue)

Classification: UNCLASSIFIED  
Caveats: NONE

----- Message from "Bachand, Michael L NAE" <Michael.L.Bachand@usace.army.mil> on Fri, 1 Jun 2012 18:20:45 +0000 -----

To:

"Keegan, Michael F NAE" <Michael.F.Keegan@usace.army.mil>, "Sneeringer, Paul J NAE" <Paul.J.Sneeringer@usace.army.mil>

cc:

"Michalak, Scott C NAE" <Scott.C.Michalak@usace.army.mil>, "Barker, Townsend G NAE" <Townsend.G.Barker@usace.army.mil>

Subject:

FW: South Marine Terminal Project in New Bedford, MA - Proposed Mitigation (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Paul, Mike,

Based on a review of the documents provided in the below email, the proposed project will require a letter of acceptance from USACE because there are proposed modifications to the interior drainage system along the Harbor Barrier & Dike segment between Cove Street and Gifford St. that was originally designed and constructed by USACE as part of the New Bedford-Fairhaven Hurricane Protection System (HPS). Any changes to a federally designed and constructed system require USACE acceptance in accordance with guidance and Title 33 United States Code Section 408 (33 USC 408) requirements.

At a minimum, the following information will be needed by USACE for review per the 408 process:

1. Detailed engineering drawings showing the proposed modifications to the drainage system. The drawings should show all existing structures, utilities, easements/R-O-W, and pertinent HPS components located in the vicinity of the proposed work area and/or impacted by the modification.
2. A technical analysis showing the proposed modified drainage channel provides, at a minimum, the same hydraulic storage and/or conveyance capacity of the existing channel.
3. Discussion of residual risk
4. Discussion of Executive Order 11988 considerations
5. Compliance with Environmental Protection policies.

Finally, the proposed modifications should allow the City of New Bedford the continued ability to access, inspect, and maintain the system in accordance with the project's Operation & Maintenance plan.

See the attached the attached 408 Clarification Guidance memo dated November 17, 2008 and attached Submittal Package Guide at the end of Memo for detailed information required for USC 408 review & acceptance. I have also included a copy of 33 USC 408 and a policy memorandum dated October 23, 2006 for your reference.

If you have any questions please let me know.

Regards,

Mike

Michael L. Bachand, P.E.  
Levee Safety Program Manager

United States Army Corps of Engineers  
New England District  
696 Virginia Road  
Concord, Massachusetts 01742  
Phone: 978.318.8075

-----Original Message-----

From: Sneeringer, Paul J NAE  
Sent: Friday, May 25, 2012 4:34 PM  
To: Bachand, Michael L NAE; Keegan, Michael F NAE  
Cc: Michalak, Scott C NAE  
Subject: South Marine Terminal Project in New Bedford, MA - Proposed Mitigation (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mikes:

Enclosed for your review is documentation on mitigation proposed for the South Marine Terminal Project in New Bedford, Massachusetts. The 17.73 acre Winter Flounder spawning habitat creation area is located adjacent to the New Bedford Harbor Federal Navigation Project ("FNP"). In addition, the 3.47 acre intertidal creation area, the 10.91 acre near shore, sub-tidal enhancement area, and the 1.9 acre successional marsh restoration area are all located in close proximity to the New Bedford Hurricane Barrier. Please let me know if any of this proposed mitigation will require a consent/acceptance letter from the Corps due to potential impacts to Federal Projects. Please let me know if you need additional information to complete your review of this issue. Thanks for your review.

Paul Sneeringer  
(978) 505-9216

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

[attachment "2008-11-17 Section 408 Clarification Guidance.pdf" deleted by Ann Williams/R1/USEPA/US]  
[attachment "33 USC 408.pdf" deleted by Ann Williams/R1/USEPA/US] [attachment "2006-10-23 Policy  
and Procedural Guidance for the Approval of Modification and Alteration of Corps of Engineers Projects-  
Memo for MSCs.pdf" deleted by Ann Williams/R1/USEPA/US]

Classification: UNCLASSIFIED  
Caveats: NONE

**REPOSITORY TARGET SHEET**

US EPA New England  
Superfund Document Management System /  
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**Native Files Target Sheet**

SDMS Document ID #:517389

Site Name: NEW BEDFORD

File Type(s) Attached (examples: Excel file or .jpg):  
.MSG

Document Type this Target Sheet Represents:

- Map       Photograph       Graph/Chart  
 Video       Compact Disc       Other (Specify  
below)

Description or Comments:

ATTACHED .MSG EMAIL FILES

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