RETURN TO SER AR INDEX

From: Sneeringer, Paul J NAE
To: Keegan, Michael F NAE; Michalak, Scott C NAE; Bachand, Michael L NAE
Cc: Cynthia Catri; ElaineT Stanley
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)
Date: Friday, June 08, 2012 11:25:00 AM

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.

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-----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

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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)

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