



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

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Cc: ElaineT Stanley, Ann Williams, "Sneeringer, Paul J NAE"
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3 attachments



2008-11-17 Section 408 Clarification Guidance.pdf



33 USC 408.pdf



2006-10-23 Policy and Procedural Guidance for the Approval of Modification and Alteration of Corps of Engineers Projects-Memo f

Classification: UNCLASSIFIED

Caveats: NONE

Folks,

At Tuesday's SER meeting I indicated that the Corps had reviewed the documentation on mitigation proposed for the South Marine Terminal Project in New Bedford, Massachusetts. This involved the 17.73 acre Winter Flounder spawning habitat creation area located adjacent to the New Bedford Harbor Federal Navigation Project ("FNP"). It also involved 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 all located in close proximity to the New Bedford Hurricane Barrier.

As I mentioned at the meeting, our review of the documents indicated 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.

I believed that Apex had been informed of the additional information that the Corps needed for review of the mitigation proposals per the 408 process. However when I returned to my office and spoke to Paul Sneeringer, he informed me that he had only provided the information requirements to EPA since he was unsure that he could provide them to Apex directly. Because neither Chet or Jay were aware of the additional requirements when I spoke with them Tuesday, I'm resending the information and including them in the email.

At a minimum, the following information will be needed by the Corps for review under 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



DATE: _____
PREPARED BY: _____
OTHER: _____

5. Compliance with Environmental Protection policies.

Finally, the proposed modifications must 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.

Attached is the 408 Clarification Guidance memo dated November 17, 2008. A Submittal Package Guide is located 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.

Mike

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