

SOUTH TERMINAL, NEW BEDFORD
EPA's DISCUSSION POINTS FOR 3/14/13 MEETING

Blasting

1. Need a written request to reconsider inclusion of blasting in the Project due to new information (acoustical studies and Corps determination); blasting would be a method of last resort, to be utilized only if the other methods of rock removal are not successful or feasible due to site conditions.
2. EPA will promptly re-initiate consultation with NMFS regarding impact of blasting on the Atlantic sturgeon. This will involve EPA sending a biological assessment to NMFS and requesting concurrence in EPA's determination regarding the potential for effects on the Atlantic sturgeon. NMFS has committed to respond promptly.
3. EPA will also consult, pursuant to EFH, with NMFS about impacts to other species from blasting.

Fish Deterrent System

1. EPA needs to see positive confirmation test of the fish detection system well before any work in water commences. This may be satisfied by a literature demonstration. However, if supporting literature is not available, the Commonwealth needs to take undertake demonstration project to show that fish detection system works and that fish are not entering the closed area.
2. Regarding the timing of blasting, assuming it will occur after June, the Commonwealth seems to be willing to leave the silt curtains in place until the rock is removed via blasting or some other means. Of course, if at some point after the fish window is closed and it becomes clear that blasting is not necessary, then the fish deterrent system can be removed.

Additional Dredging Work

- A. 200' Length Extension of the Deep-Draft Berthing Area
 1. A modification to the existing TSCA Determination will be necessary. Need additional information from Commonwealth on: depth, location, concentrations, sampling, map, where disposed. Further conversation needed with Apex to work out details.
- B. 50' Width Expansion of Channel
 1. Same as No. 1 above.
- C. CAD Expansion

1. Assuming disposal into CAD 3, need written information and map of additional expansion of CAD 3 that is necessary to accommodate the additional work.
2. Need additional amount of dredging required, additional acreage needed, any increase in depth and where contaminated sediment will be disposed. Need confirmation that there is sufficient capacity in receiving area to accommodate the additional dredging.
3. Need confirmation that there is adequate data to demonstrate that the additional material to be removed as part of CAD 3 expansion contains sediment with PCB concentrations of less than 50 ppm.

Site Control

1. Radio Tower: Need written submission on steps to be taken to secure control of the property and a schedule for those steps.
2. Hathaway: Need written submission on schedule for obtaining site control.

Mitigation

A. River's End Park

1. A wetlands scientist with experience in salt marsh creation projects and invasive species control must be hired to oversee the entire mitigation project, not just planting; need identification of the name of the individual or firm that the Commonwealth intends to hire.
2. Need detailed explanation of how the Commonwealth intends to implement the mitigation plan, including identification of whom it intends to retain to do the construction and a detailed schedule, for our review before finalizing any plans or contracts.

B. All Mitigation

1. Need early coordination with EPA on draft construction and performance bonds, site protection instruments, conservation restriction, escrow accounts, etc. for the Rivers' End Park and OU3 mitigation activities. No bond, conservation restriction, etc. may be finalized until after receipt of EPA's comments on the drafts, and the final versions must be consistent with those comments, as specified in the special condition of Appendix E of the Final determination.
2. For shellfish restoration, the oyster reef was not authorized by the Final Determination; if it is to be included, a plan must be provided to EPA for review and approval before such work may proceed.

SER Project Manager

1. Need the name of the SER Project Manager; it was formerly Paul Craffey.