



S. Russell Sylva  
Commissioner

55442

Site: New Bedford  
Borough: 4

*The Commonwealth of Massachusetts*  
*Executive Office of Environmental Affairs*  
*Department of Environmental Quality Engineering*  
*Division of Solid and Hazardous Waste*  
*One Winter Street, Boston, Mass. 02108*

November 13, 1986

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DEC 2 1986

*Murphy*  
*HR 1-Case*

Re. New Bedford Harbor  
Superfund Site

REGION I  
WASTE MGMT. DIVISION

Merrill S. Hohman  
Waste Management Division  
U.S. Environmental Protection Agency  
J.F. Kennedy Federal Building  
Boston, Massachusetts 02203

Dear Mr. Hohman:

The Department of Environmental Quality Engineering has received the preliminary proposal that was prepared by the Army Corps of Engineers for EPA. The proposal was submitted to us on September 25, 1986, and titled "New Bedford Superfund Pilot Study". The preliminary proposal outlines a pilot program to demonstrate the feasibility of dredging and disposal of contaminated sediments in New Bedford Harbor.

The anticipated scope for the preliminary proposal calls for a 4-6 million dollar field demonstration to remove 50,000 cubic yards of contaminated (approximately 100 ppm PCB) sediments by conventional dredging and disposal in either a diked disposal area or in a confined aquatic disposal site. Stabilization of the contaminated sediments will also be evaluated during the pilot study.

Based on its review of the preliminary proposal, the Department supports the concept of a pilot study for the New Bedford Harbor Federal Superfund site. A pilot study demonstrating the feasibility of dredging and disposal options would provide valued information for the overall New Bedford project provided it adopts measures that will adequately mitigate environmental impacts and that information from the study is integrated into the overall feasibility study.

The anticipated start-up date for the demonstration is fall of 1987 and the Feasibility Study for the overall project is scheduled for release early in 1988. Within this time frame substantive requirements for state permits must be met, appropriate safeguards must be incorporated into the pilot study, technical feasibility of design specification needs to be approved and a community advisory committee must be established.

The Department offers the following comments on the preliminary proposal and a strategy for future technical and regulatory review.

The pilot study plans to evaluate one of the following disposal options:

1. A diked disposal area in wetlands.
2. Upland disposal location at the northern limit of wetlands on the Acushnet side.
3. Confined Aquatic Disposal Cell at an in-harbor location.

The proposal identifies the above as potentially viable alternatives but does not evaluate or recommend one in particular.

The Department recommends that the confined aquatic disposal (CAD) be considered for this pilot study. The Department has historically been opposed to upland disposal as a possible remedial action for the overall New Bedford Harbor site and still maintains that position. The Department believes evaluation of other options would be more appropriate at this time. In keeping with the intent of a pilot study the CAD is the alternative with the most limited application in this country and as such would be most benefited by a pilot study. In addition, it is a preferred alternative to the destruction of a wetland area. In considering the CAD alternative, it would be necessary to evaluate navigational restrictions, tidal influences, alteration of sedimentation patterns, potential for erosion of the cap during storm events, and the potential for PCB releases due to bioturbation. The current proposal does not address the above or adequately consider contaminated sediment dispersal during the dredging operation or health and safety considerations to protect worker safety and public exposure.

In addition, a real time monitoring program must be incorporated to provide ongoing data documenting the success of confinement and dispersal minimization efforts. This should provide meaningful data that would be incorporated into the overall New Bedford Harbor Feasibility Study. To address the above concerns, EPA will need to develop a system to extract information from ongoing studies and input results generated from this pilot study into the Feasibility Study. The Department is requesting the opportunity to review and comment on this generated data as it becomes available. The Department is also requesting a plan to address the operation and maintenance for the disposal area resulting from this pilot study during and after EPA's active involvement in this site.

The pilot program is an ambitious undertaking that can be extremely valuable to the success of the overall New Bedford Harbor remediation. It will require an efficient transfer of information between DEQE and EPA and sufficient time to allow for the presentation of pertinent information to concerned citizens and interested parties.

Toward this end, the Department has assigned the following people to provide technical and regulatory reviews. MEPA has assigned Dave Shepardson to provide environmental review and to assist in the formulation of a community advisory committee. Coastal Zone Management has assigned Judy Pederson. The Department of Fisheries and Wildlife has assigned Nancy Hansen.

Merrill S. Hohman  
November 13, 1986  
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1. Project Manager - Anne Heffron
2. Office of Research and Standards - Paul Anderson
3. Division of Water Pollution Control - (Regulatory) Judy Perry
4. Division of Water Pollution Control - Rich Tomcyke
5. Water Supply - Yvette DePaiza
6. Division of Air Quality - Herb Redman
7. Wetlands/Waterways - Brett Burdick
8. Hazardous Waste, SERO - John Blundo

The Department looks forward to working cooperatively with you on this project. Should you have any questions, please contact project manager Anne Heffron at (617) 292-5821.

Very truly yours,



Thomas F. McLoughlin  
Deputy Commissioner

TFM/AH/dmd

cc: Gilbert Joly, REE, SERO  
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Judy Perry, WPC, Boston  
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COASTAL ZONE  
MANAGEMENT

M C Z M

*The Commonwealth of Massachusetts*  
*Executive Office of Environmental Affairs*  
*100 Cambridge Street*  
*Boston, Massachusetts 02202*

M E M O R A N D U M

TO: LANNY JOHNSON

FROM: RICHARD F. DELANEY 

DATE: APRIL 18, 1984

SUBJECT: EPA REGION I QUERY REGARDING STATE LAWS GOVERNING NEW BEDFORD CLEAN UP

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In a letter dated April 3 Michael Deland asked Secretary Hoyte to apprise EPA of the state laws which could delay the implementation of federal actions to clean up New Bedford Harbor pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This memorandum examines the applicability of the CZM consistency review and provides a list of other state laws which may affect Superfund activities.

CZM CONSISTENCY REVIEW

Remedial actions, such as dredging, conducted or supported by the EPA are subject to consistency review by CZM unless EPA can make a showing that compliance is prohibited.

The Federal Coastal Zone Management Act of 1972 requires all federal agencies which are "conducting or supporting" activities affecting the coast to do so in a manner consistent with state coastal management plans. (CZMA Section 307(c)(1)). Federal regulations enacted pursuant to the CZMA require the federal agency which is conducting or supporting the coastal activity to submit a consistency determination to the state prior to proceeding with the action. (15 CFR 930.34). State regulations govern CZM's review of federal agency consistency determinations. A mandatory component of the review is a 21 day public notice and comment period. (301 CMR 21.04).

Some of the New Bedford clean up activities may, however, be exempt from CZM consistency review. First, only activities conducted or supported by a federal agency are subject to CZM review. Consequently, if the state conducts the activity CZM need not review it (unless a federal permit is required). For instance, CZM may not need to review the siting and designation of the disposal site since this will be done by the state as required in CERCLA. (Section 104(c)(3)).

Second, the Superfund activities in New Bedford will be exempt from CZM review if EPA can demonstrate that compliance with the state plan is prohibited by federal law. EPA has the burden of making this showing to the state. (15 CFR 930.32(a)).

CZM review need not be a lengthy process. While the federal regulations require the federal agency to submit the determination 90 days prior to acting (15 CFR 930.34), this period can be shortened by agreement between the State and the agency. Once CZM received EPA consistency determination, we could likely complete our review in four (4) weeks.

#### OTHER APPLICABLE STATE LAWS

There are a variety of other state laws which could delay Superfund activities such as dredging and dredge spoil disposal:

*Wetlands Protection Act	MGL c. 131 s 40
*Clean Waters Act	MGL c. 21 s 26-53
*MEPA	MGL c. 30 s 62-62H
*Disposal of Dredge Material	MGL c. 21A s 14
*Waterways	MGL c. 91