



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

March 16, 1982

Sam Mygatt, Director  
MEPA Unit  
Mass. Executive Office of Environmental  
Affairs  
100 Cambridge Street  
Boston, MA 02202

Dear Sam:

In response to your request, we are providing you with our comments on the Environmental Notification Form (ENF) for the proposed Waterfront Park, New Bedford, Massachusetts as part of the scoping process under the Massachusetts Environmental Policy Act. We particularly appreciate this opportunity for input early in the process because of the likelihood that an environmental impact statement may be required at the federal level.

According to the ENF, this project involves creation of a park at a 38-acre site which includes 22 acres of a tidal cove of the Acushnet River. The project would include the placement of a perimeter road isolating the cove from the River and filling the cove behind the road with excavated material for future development of a recreational area. Fill material would include sediments excavated from the perimeter road alignment and sediments dredged from New Bedford Harbor. As noted in the ENF these sediments probably contain high levels of polychlorinated biphenyls (PCBs). In fact, existing data indicate PCB values of up to 100 ppm in the vicinity of the project and much higher values at various locations in the River and Harbor. Based on the limited information available about the project at this time, we believe EPA's jurisdiction over the project will be as follows:

First, the project will require a permit under Section 404 of the Clean Water Act. As you know, these permits are issued by the Army Corps of Engineers using EPA's Section 404(b)(1) Guidelines for the Specificatoin of Disposal Sites for Dredged or Fill Material (FR December 24, 1980). EPA reviews all 404 permits to ensure compliance with the Guidelines. We believe it would be appropriate for the Environmental Impact Report to contain environmental evaluation, alternatives analysis, and other information required for the 404 permit decision. A copy of our Guidelines is enclosed. A Corps of Engineers Section 10 permit may also be required.

Second, if the fill material to be used in the project contains levels of PCBs in excess of 50 parts per million (ppm), the Toxic Substances Control Act requires that the applicant obtain a PCB disposal permit. Appropriate testing will be required to determine the levels of PCB contamination in the various materials proposed for use in the project and, if the material is classified as hazardous, the site must be designed to prevent the return of PCBs to the River and measures must be provided to protect users of the recreation area from exposure to PCBs.

Therefore, in addition to our usual concerns with a dredging and filling project such as compliance with the 404b Guidelines and overall environmental impacts, we have a specific duty to ensure that the disposal site itself properly isolates the PCB laden material from the human and natural environment. Accordingly, it will be important to know what the specific uses of the site are expected to be so that if the project complies with the 404b requirements for filling at all, EPA will have the information before us to evaluate the proposed PCB containment system.

Clearly, we and the Corps of Engineers will need to coordinate our review very carefully with yours and the applicant's in order to ensure that the environmental studies provide all the required information without duplication of effort.

We believe it would be appropriate for us all to meet as soon as possible. If you have any questions, please contact Betsy Higgins of my staff at 223-4635.

Sincerely,



Wallace E. Stickney, P.E.  
Director  
Environmental Impact Office

Enclosure

cc: Rob Adler, COE  
Jim Okun  
Doug Thompson  
Charlie Bering  
Steve Ells