

## EPA Official Record

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**Notes ID:** F24329EDA931DD2C86257A3900586E57

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**Delivered Date:** 08/09/2011 02:52 PM EDT

**Subject:** Fw: Friday 8/5 meeting with Gary Davis, Chuckie Green, and Bettina Washington

FYI, report on issues raised by tribes concerning South Terminal project...

----- Forwarded by Carl Dierker/R1/USEPA/US on 08/09/2011 02:50 PM -----

From: Stephen Perkins/R1/USEPA/US

To: Carl Dierker/R1/USEPA/US@EPA

Date: 08/09/2011 09:48 AM

Subject: Fw: Friday 8/5 meeting with Gary Davis, Chuckie Green, and Bettina Washington

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keeping you up to date

thanks  
stephen

Please only print if necessary

----- Forwarded by Stephen Perkins/R1/USEPA/US on 08/09/2011 09:48 AM -----

From: Michael Stover/R1/USEPA/US

To: Stephen Perkins/R1/USEPA/US@EPA

Cc: Lois Adams/R1/USEPA/US@EPA

Date: 08/09/2011 09:38 AM

Subject: Friday 8/5 meeting with Gary Davis, Chuckie Green, and Bettina Washington

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Stephen,

Here are some notes from the meeting:

- Chuckie opened the meeting with the need for advanced notice in order to schedule monitoring, and

provided an example schedule that DOT shares with the tribe for monitoring, projecting two months out, and recommended this as a model for the south terminal project. He said that on most occasions he will want to be there himself, but will rely on Aquinnah's monitoring most of the time. He asked for at least a 2-week notice, and Gary said that he will try to accommodate this.

- Gary understood in March that the tribes wanted to be onsite during only the construction phase, and didn't think that the tribes would be monitoring this pilot sheet piling, especially since it wasn't near the paleosols... and thought it was OK to proceed, and believed the information was provided in a timely fashion. He acknowledged that he provided the incorrect map initially, but said that he wasn't definitive as to the date of the testing because he didn't think that the tribes would be interested... but wanted to generally inform them of the activity. Chuckie understood from the Apex information that all testing was completed. This new testing was not included in the APEX materials. Gary said that the testing is now pushed out to 8/16, and if this does not work for Bettina, then he asked her to let him know. Chuckie will defer to Aquinnah for this monitoring.
- Chuckie/Bettina recommended that an MOU be developed laying out the monitoring process and requirements, similar to how the state DOT has done with the Mashpee tribe, and he will send Gary the MOU. Gary will explore this. Chuckie said that going forward, tribes will want to be part of construction meetings, but Gary did not think it would be appropriate for tribes to be part of internal meetings, especially since this is a small part of an overall larger project. It was discussed that maybe a follow-up call with the tribes after Gary's "internal" meeting would be appropriate; Gary will check into this once he meets with his staff. I offered to set up the conference calls with the EPA bridge and can participate, but that communication should continue to be directly between Gary and Chuckie/Bettina. Chuckie said that it is preferred that the tribes be part of the construction meetings, and it has worked well on other projects, but a weekly call would be OK, as long as the tribes get the information they need. Gary stated that he feels that whatever information the tribes need, they are entitled to it, except for being part of his internal meetings. The instructions given to the consultants is "full disclosure."
- For protection protocols, Chuckie would like to see in writing for the immediate testing work, the protocol that Gary expressed verbally on a conference call on Wednesday, 8/3, that included installing and removing sheet piling, and observation of the soils on the piling to determine any characteristics similar to paleosols. For the long term, Chuckie recommends that an MOU be developed.
- Bettina raised the issue that the APEX website references New Bedford with Cape Wind. Gary said that this is the primary reason why he is meeting with the tribes today. At the March meeting, Bettina asked the question if the construction and use of the terminal in New Bedford was only for use as an international terminal, and the consultants' response was "yes." Gary stated that he was here to explain what he "uncovered" and wanted to meet face-to-face. Gary said that he "missed the queue" with respect to Bettina's question at the March meeting. Gary said that he assumed that the plan was to move forward with Cape Wind, and didn't realize what was behind Bettina's question. He said that the State recognizes that the permit contemplates that the staging area is in Rhode Island, and when I brought up the issue that the air permit was for Quonset, he acknowledged that Cape Wind would need to modify its permit to use the New Bedford terminal for Cape Wind activities, and this will "become clearer" in weeks to come. The Commonwealth's goal is that the New Bedford terminal would have long lasting industrial use, including international purposes (would need to revisit another EPA permit? I understood that there was no EPA permit at New Bedford, only Quonset?) and that the terminal can be used as a staging area for Cape Wind. Gary said that he understood the Tribe's collective opposition to Cape Wind.
- Gary laid out the following take-aways:
  - confirmation will be provided of what is encountered during the piloting
  - He will discuss internally about tribes' desire to participate in internal meetings
  - Anything proposed in future that is not in the plan will be shared
  - He will look into development of an MOU... Bettina thinks EPA should develop this, since EPA is the grantor of the permit? I need to discuss further internally
  - Go back to consultants on work plan. Chuckie wants notice to monitor any construction activity, in or out of water. Gary will do his best to arrange for this.
  - Bettina wanted to discuss further Lois' email about recusing herself from any Cape Wind discussions. I told

Bettina that we can discuss this later next week with Lois.

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