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From: Susan Tuxbury <susan.tuxbury@noaa.gov>

To: Phil Colarusso/R1/USEPA/US@EPA

Copy To: Christopher Boelke <Christopher.Boelke@noaa.gov>; Lou Chiarella <Lou.Chiarella@noaa.gov>

Delivered Date: 10/16/2012 11:57 AM EST

Subject: Re: draft mitigation plan

Phil,

Thanks for the response. This clarifies quite a bit. Here's just a few thoughts on some of the things you mentioned...

As far as oyster mitigation, I talked to Lou about the 20% number since he was at the meeting. He said it was Paul Diodati's response that it should be no more than 20%. He thought it had something to do with the economics of raising the oysters and raising just 10% might not be economical. If this isn't an issue, we'd be fine with using the percentage of oysters present from the survey so that the ratio better represents the population being impacted.

We agree that it will be very difficult to find the winter flounder eggs. Lou mentioned that in all the years of monitoring NY Harbor, the Corps has only collected a magnitude of about 10 eggs per site for those sites that actually had a positive tow. Is this the reasoning behind the 3 years vs 5 years of monitoring for winter flounder eggs?

Also, we're okay with no biological monitoring of the intertidal area, though it would be helpful to cite the surveys they are referring to.

As far as shellfish monitoring, if the state will be doing monitoring of this area on their own, it would be good for us to see the results. The document is just confusing since at first they say they will not be monitoring and then they describe quadrat sampling. If they are not planning to monitor and just use the 40 % survival rate, then they should be diligent in their site selection and be sure to pull in experts if they haven't done so already.

Thanks again for clearing up some of these questions. Let me know if you want to talk further. Thanks.

Sue

On Tue, Oct 16, 2012 at 10:18 AM, Phil Colarusso <colarusso.phil@epamail.epa.gov> wrote:

Sue,

I will take your comments and pass them along. I can answer some of your comments.

1. The changing shellfish numbers: they have presented a worst case dredging scenario in terms of area. This includes the Federal navigation channel and dredging of marina areas for the City. It is possible that they will decide not to dredge those areas and they want the mitigation plan to be scaled back accordingly. I think that is reasonable.
2. Oysters - NMFS has pushed for the creation of an oyster reef. This will include spat produced by the Commonwealth and it will likely constitute somewhere between 10-20% of the shellfish spat that they produce. I think the 20% is overly generous compared to the quantity of oysters lost at the proposed site.
3. Winter flounder spawning - I too had an issue with their description of the temporary impacts. I think what the document needs is the consistent use of the term "Winter flounder spawning habitat" to distinguish between the habitat and the activity.
4. Egg survey - they have already contracted for the egg surveys to be done and I believe they have data from the spring/summer of 2012 already for their Before comparison. I think it is highly unlikely that this monitoring will show anything. I was involved with the great winter flounder egg hunt in Mount Hope Bay for a decade. MRI could not find any winter flounder eggs despite years of trying very hard to locate the secret spawning location. They towed a benthic sled over literally square miles of bottom and couldn't find anything. This is a relatively small area in comparison, I would be surprised if they found many eggs.
5. Intertidal monitoring - I hate to require monitoring with no real decision point here. They are placing clean material and I'm confident that the area will be recolonized. Will it be the same community that was there before? Who knows? Do we even want it to be the same community as there was some level of contamination present?
6. Shellfish monitoring - I suspect that the Commonwealth will be doing some limited monitoring of the seeded areas. Personally, I feel the mitigation proposal itself is more than ample compensation for the impact. I suspect that the dredged areas will be recolonized by quahogs over time, so for much of the project this represents a temporary impact. The Superfund program has not done similar mitigation for their dredging, nor will they likely in the future. Generally, we don't make the Corps or other dredgers due this type of mitigation.
7. Details on silt/bubble curtains - We are still waiting on these details, but

I'm hopeful that some of this may be in the document that Kathryn has generated which includes the monitoring plan.

Phil

Susan Tuxbury ---10/16/2012 09:34:50 AM---Phil, Attached are some informal comments on the draft mitigation plan. Let me

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Cc: Christopher Boelke <Christopher.Boelke@noaa.gov>, Lou Chiarella <Lou.Chiarella@noaa.gov>
Date: 10/16/2012 09:34 AM
Subject: draft mitigation plan

Phil,

Attached are some informal comments on the draft mitigation plan. Let me know if you have any questions or want to discuss anything further. Thanks.

Sue[attachment "South Terminal_Draft Mitigation plan_NMFS informal comments.docx" deleted by Phil Colarusso/R1/USEPA/US]