Comment: T-4

Massachusetts Audubon Society

North Shore Conservation Advocacy
William B. Endicott Wildlife Sanctuary
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May 30, 1997

Mr. Jack Terrill, Coordinator
New Bedford Harbor Trustee Council
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Mr. Terrill,

The Massachusetts Audubon Society supports the use of money from the restoration fund for New Bedford Harbor for Buzzards Bay tern restoration and habitat stabilization. We are glad to see that this project has been included in the list of 12 preferred restoration ideas prepared by the Council. We think it should be at the top of the list since terns are one of the three resources for which damage as a result of the contamination of New Bedford Harbor was clearly proved. There is a particular need for roseate terns restoration, as they are federally listed as endangered.

Providing funding for protecting and restoring terns clearly fits the intention of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Common and Roseate Terns were directly injured by the PCB contamination of New Bedford Harbor, as indicated in the Draft Restoration Plan/Environmental Impact Statement (RP/EIS) and in the research of Dr. Ian C. T. Nisbet. Nothing in CERCLA indicates that all funds need to be spent on projects specifically within New Bedford Harbor, but that funds need to be used in support of restoring natural resources injured by the toxic wastes.

The project consists of continued restoration, management, and monitoring of tern colonies at Bird and Ram Islands, restoring terns to Penikese Island, rebuilding and stabilizing eroded areas on Bird and Ram Island to maintain the integrity of nesting sites, and monitoring tern eggs for PCB residues. This is a six year project with an approximate cost of $886,000 of which $124,000 will be spent in the first two years of work. Cost sharing by several state and federal agencies will contribute significantly to the project. The terns are currently in a very precarious position, not only because of the impacts of PCBs from New Bedford, but also because the two current nesting sites, Bird and Ram

Island, have experienced heavy erosion over the past few years. This is why the rebuilding and stabilization work proposed for Bird and Ram Islands and the need to establish a third nesting area at Penikese Island are so important to insure the future health of terns in the New Bedford Harbor region.

The Society's main concern is that the Trustee Council needs to commit to funding this project in its entirety over the six year time-fame. The Draft RP/EIS is unclear on this, stating that the Trustee Council will commit funds for only the first two years and then reevaluate this project. The first two years will be largely focused on monitoring, design, and permitting that will help to determine the specifics of the rest of the project. The major remedial actions, such as stabilizing nesting islands, will not take place until the following four years. It is therefore absolutely essential that the Trustee Council commit to the entire six years of this project. The cost of the project, when spread out over the six years is not great, but the anticipated benefits to New Bedford Harbor and Buzzards Bay are substantial.

Past experience has shown that terns respond well to the kinds of management measures that are being proposed. The proposed management measures are consistent with the federal recovery plan for Roseate Terns. The recent elimination of chemical controls on gulls by the project proponent should eliminate public concern about this particular aspect of the project.

The Massachusetts Audubon Society is a voluntary association of people whose primary mission includes the preservation of a Massachusetts environment that supports both wildlife and people. The Society's programs encompass three broad areas: biological conservation, environmental education, and advocacy. The Society is one of the largest independent conservation organizations in New England with a membership of 55,000 households.

We thank you for this opportunity to comment.

Sincerely yours,

John J. Clarke,
Advocacy Director

cc Senator Edward Kennedy
Senator John Kerry
Representative Barney Frank
Brad Bodgett
Dr. I.C.T. Nisbet

Comment: G-12

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May 30, 1997

New Bedford Harbor Trustee Council
c/o NMFS, F/NEO2
1 Blackburn Drive
Gloucester, MA 01930

Re: Draft Restoration Plan Environmental Impact Statement/Environmental Impact Review for the New Bedford Harbor Environment

Dear Sir/Madam:

General Electric Company ("GE") appreciates the opportunity to submit these comments on the "Draft Restoration Plan Environmental Impact Statement/Environmental Impact Review for the New Bedford Harbor Environment" (April 1997) ("Draft Plan"). Our comments focus on the Draft Plan's failure to describe how PCBs have caused injury to the ecosystem of New Bedford Harbor. Without such a showing, it is impossible to select appropriate restoration options because one does not know what injuries are to be restored.

The Draft Plan does not demonstrate that releases of PCBs into the Harbor have injured the Harbor's ecosystem. Although we recognize that the focus of the Draft Plan is on restoration options, before a restoration plan can be developed, it is necessary to understand how the release of hazardous substances, in this case PCBs, has injured natural resources. Without such an understanding, one cannot know which resources are injured and to what extent they must be restored. Although this task is typically addressed through a natural resource damage assessment, it appears that no such assessment has been performed for the New Bedford Harbor Site, probably because the trustees settled their claims for natural resource damages early in the process. The existence of a restoration fund, however, is not a valid reason to avoid the trustees' obligation to show that PCBs have caused injury to natural resources, and the Draft Plan's limited three page description of ecological injuries allegedly resulting from PCBs is completely inadequate to this task.

The Draft Plan uses two approaches to support a showing of ecological injury. First, it claims that the presence of elevated levels of PCBs present in the Harbor sediments and biota shows that the ecosystem has been impaired. Second, it relies on two studies -- one a collection of data concerning the effects of PCBs on Harbor benthos (Nelson, 1996) and the other an advocacy document prepared in the context of litigation (Nisbet, 1990) -- to attempt to show more specifically how the PCBs have harmed biota in the Harbor. Neither method is sufficient.

The Draft Plan's primary mode for showing injury is to describe the elevated levels of PCBs in Harbor sediment and biota. Draft Plan at 3-62 to 3-65. The presence of PCBs alone, however, does not mean that there has been an injury to the biota in the Harbor. Such injuries can only be shown through studies linking the PCBs to impacts on populations, communities or ecosystems within the Harbor. Exceedance of the FDA tolerance, touted by the Draft Plan as a sign of ecological injury, merely shows that humans cannot (or should not) consume fish; it does not show that the fish themselves are harmed. Indeed, as the Department of Interior has recognized, "[m]any organisms, including man, can carry low levels of foreign chemicals in their tissues with few or no known measurable effects from those chemicals. Injury determination in this rule is based on demonstrable adverse biological response from the oil or hazardous substance." 51 Fed. Reg. 27683-84. Accordingly, to show injury, the trustees must do more than simply identify the presence of PCBs in biota; they must show specifically how the presence of the PCBs has caused an injury to those biota.

Even where the Draft Plan attempts to make such a showing, it falls far short of demonstrating that PCBs have caused any significant injury to populations, communities or ecosystems within the Harbor. The Draft Plan first states that a study by Nelson (1996) shows low survival rates for amphipods and "low benthic diversity" and "degraded benthic community" in areas of the Harbor contaminated with PCBs and metals. Draft Plan at 3-63, 3-64. The Draft Plan, however, does not clarify whether these effects resulted from PCBs or metals, and without some direct link to PCBs, the cited study does not demonstrate that PCBs have injured benthos in the Harbor. More problematic is the Draft Plan's unsupported hypothesis that the "reduced biodiversity and ecological health of benthic communities stemming from the Harbor contamination resulted, in turn, in reduced diversity and abundance of bottom-feeding fish and other predatory species that depend on these communities." Draft Plan at 3-64. If such braoder effects in fact have occurred, one would expect that data showing reduced biodiversity and abundance of fish and other predatory species would exist. Yet, the Draft Plan presents no such data. Thus, while Nelson (1996) might arguably show some injury to the benthic community, it cannot be used to demonstrate injury to other organisms that might feed on benthos.

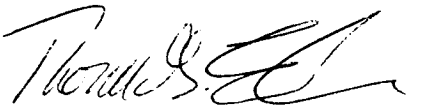
The Draft Plan also relies on a litigation report prepared by Nisbet (1990) to claim that common terns were lethally poisoned by PCBs as a result of feeding on baitfish in New Bedford Harbor. Draft Plan at 3-63. This document is also used to support claims that "PCBs from New Bedford Harbor posed a threat to the survival of a number of other species of fish-

eating birds in Buzzards Bay, including the double-crested cormorant, snowy egret, great egret, herring gull, great black-backed gull, ring-billed gull, laughing gull and least tern." Draft Plan at 3-65. Putting aside the question of whether the trustees should rely on an advocacy document prepared in support of litigation to show injury in the Draft Plan, if PCBs were causing such significant impacts (i.e., threatening the survival of these birds), one would expect that these effects would be obvious and documented. The lack of any studies showing such widespread effects, however, suggests that they are not in fact occurring.

In short, although the Trustee Council has received funding for the natural resource damage restoration process through a previous settlement, it must still show how PCBs have caused ecological injury in New Bedford Harbor. The Draft Plan's reliance on the presence of PCBs and vague and hypothesized impacts from limited and possibly biased studies is inappropriate and insufficient to show such injury. Unless such injuries are clearly identified and demonstrated, the trustees cannot make a rational decision about appropriate restoration projects.

Please do not hesitate to contact me should you have any questions

Sincerely yours,



Thomas G. Echikson

INTERNATIONAL WILDLIFE COALITION
IWC
Printed on recycled paper

June 1, 1997

New Bedford Harbor Trustee Council
1 Blackburn Drive
Gloucester, MA 01930

Comments: G-1, G-2, G-7, T-1, T-2, AQ-2

Dear Council Members:

I am writing to comment on the draft proposals for the restoration of New Bedford Harbor.

I was surprised to see that the funds are being used via a grant system whereby state and federal government offices (knowledgeable of the existence of the funds) are voting to use this money to fund their own pet projects. Clearly, I would have thought the wiser action would have been to assemble a panel of experts (with no conflict of interests with regards to personal benefit) and have them draft a plan for the maximum environmental benefit of New Bedford Harbor. Comment G-7

I specifically am shocked to see that hundreds of thousands of dollars are to be used to poison gulls and kill other predators, re. tern recovery. As a wildlife organization, we applaud the use of funds for wildlife recovery, but we cannot condone cruel, frivolous or wasteful programs. I also note that the Citizens Advisory Board voted against these projects, only to have them later adopted by the Council. This is most inappropriate. The tern projects proposed are well outside of New Bedford Harbor. More to the point, however, is that the very government offices that will be getting the money made the deciding votes on these proposals. They elected to ignore the citizenry and give themselves the money. Comment T-1 Comment G-2 Comment G-1 Comment T-2

On an additional issue, I agree with the Council in the rejection of the proposed aquarium on many grounds. Within the past few years there have been a number of aquariums in the United States that have gone bankrupt. A recent example is the relatively new aquarium in Camden, New Jersey. This facility was to revitalize an urban area, however, the benefit has been minimal at best. It remains a significant financial drain on the local community. Comment AQ-2

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I urge the Council to broaden their environmental perspective and to develop a coastal master plan for the best use of the twenty million dollars available. It is my understanding that these funds are to restore the environmental quality of New Bedford Harbor. I respectfully suggest Council-funded projects focus on this primary objective.

Respectfully,

Daniel J. Morast

Daniel J. Morast, President
International Wildlife Coalition
70 East Falmouth Highway
East Falmouth, MA 02536
Phone: 508-548-8328, ext 202
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Comments: SH-1, SH-3, T-1, T-4, NA-4

Comments upon the "Draft Restoration Plan Environ

Environmental Impact Review for the New Bedford Harbor Environment" by Robert J. Olivera, Director, Fairhaven Fisheries Institute, Inc. (FFI)

Comment T-1, Comment T-4

Plans for restoration and stabilization of Buzzards Bay terns are worthwhile. Every effort should be made to accomplish this goal, however, without a gull poisoning component. (4.3.6.2.1)

Comment SH-1

Comment SH-3

Plans for restoration and management of the New Bedford Area Shellfishery:Area 1,2,and 3 are worthwhile. Native quahogs should be utilized as seed donors, as is done in Martha's Vineyard, and seed from the notata, genetically distinct, subspecies of Mercenaria mercenaria should be prohibited. Further introduction of the notata into this area diminishes biodiversity, already a problem because of PCB contamination, and the thinner-shelled subspecies notata must interact with quahogs'main shell-attacking predators. Not only would crabs have a thinner-shelled object of predation; but,shellfishermen, particularly power dredge operators, would have increased discards as a result of more broken-shelled catch, increasing the harvesting effort. In 1953, Glude and Landers reported that bullraking and power dredging effects are both dissipated within 500 days of their conclusion. Dredging destroys sea-grasses and benthic algae and recolonization proceeds slowly; therefore, broken-shelled discards must be kept to a minimum. (4.3.5.2.1)

Comment NA-4

Plans for restoration and management of the New Bedford Area Finfishery are incomplete because "...the damage assessment performed was incomplete' (4.2.4). In 1996, I questioned the Chair, Technical Advisory Committee, Mr. John Terrill, whether a striped bass (Morone saxatilis) project would conform to guidelines establishing which species had been damaged by PCB

discharges into the New Bedford/Fairhaven Harbor environment. He was most obliging; helping research this question for me and providing a copy of the only natural resource assessment than extant, the EBASCO Services' "Draft Final Baseline Ecological Risk Assessment: New Bedford Harbor Site Feasibility Study",which the EPA funded and was following in determining, at the time, what constituted the New Bedford/Fairhaven Harbor environment's biota. Striped bass received short shrift in that report.
The Draft RP/EIS prepared by the Trustee Council, April,1997, rectified this shortcoming. Table 3.1'Fish using fresh water habitats in the Acushnet River'(Hurley, 1996): Table 3.6'Finfish in the New Bedford Harbor Estuary'(from VHB, 1996;Kolek&Ceurvais, 1981;Hoff et al., 1973): Table 3.7'DOMINANT COMMERCIALLY VALUABLE FISH SPECIES IN BUZZARDS BAY IN ORDER OF ABUNDANCE AND PREFERRED PREY ITEMS' Adopted from Howes and Geohringer(In Press): and, D.Kolek's personal communication of 1996 found at the Recreational Fishing section (3.4.3.4.2) each document that striped bass inhabit the New Bedford/Fairhaven Harbor environment.
Striped bass have been contaminated by exposure to PCBs in the New Bedford Harbor area. (3.5.2.1) J.A. Whipple, in 1984, reporting to NMFS on the bioaccumulation of PCBs in stripers,as part of the project resulting from the settlement of the polluting of Hudson River by General Electric, found in "The impact of estuarine degradation and chronic pollution on anadromous striped bass",that PCBs biomagnify in them because of their biology. "PCB contamination renders ... finfish...inedible by humans; and organisms contaminated by PCBs cannot be depurated." (3.4.6) "As a result of PCB contamination in the New Bedford Harbor Estuary, the Commonwealth of Massachusetts enacted three commercial and recreational fishing closures in September, 1979. These closures continue in effect through today and

are expected to remain in effect until some years after harbor cleanup is completed. (3.5.3) "Furthermore, lack of high-quality habitat may prevent populations or communities injured by PCBs from fully recovering from the effects of the contamination once the harbor sediments are remediated."(3.4.6)

In consideration of the aforementioned, FFI proposes an aquaculture-based project to aid in the restoration of this species, Morone saxatilis, injured by the release of PCBs into the New Bedford/Fairhaven Harbor environment. This project should be an Emergency Restoration Action.(4.2.3)

The Fairhaven Fisheries Institute Striped Bass Project (FFISB)

FFI is a 501(c)(3) research and educational community economic development corporation. FFI is publicly supported,with a representative governing body, organized to benefit the New Bedford/Fairhaven area.

In 1994, FFI met with representatives of the University of Mass., Dartmouth, led by Chancellor Peter Cressy, to promote aquacultural initiatives for this area: proposals included urban aquaculture to re-colonize vacant factory space in southeastern Mass., mariculture, aquacultural training for members of the local fishing industry negatively affected by the New England 'fisheries crisis',stronger linkages with aquaculturists and other marine scientists from outside southeastern Mass.,and development of integrated aquacultural programs with local primary and secondary schools.Also, in 1994, FFI met with the administration of Greater New Bedford Regional Vocational and Technical High School to inform them the appropriateness of aquaculture as a core curriculum in keeping with the mandates of the Mass. Education Reform Act of 1993, to facilitate the transference of an existing curriculum from the Bridgeport, Conn. Aquacultural High School to their own

school, to liaise between themselves and University of Mass., Dartmouth's, emerging aquaculture program,and, finally, to highlight the potential linkage between aquaculture programs and hydroponics and other forms of agriculture and culinary arts.

In 1995, FFI was a sponsoring agency for a symposium on aquacultural opportunities for southeastern Mass. held at University of Mass., Dartmouth. In 1995, FFI was funded by The New Bedford Corporation to undertake a study of the feasibility of finfish mariculture in Buzzards Bay.

In 1996, FFI submitted a report to The New Bedford Corp., "Buzzards Bay Aquaculture:Finfish Mariculture", concluding that there is adequate space for the production of ten million pounds of finfish in net-pens within Buzzards Bay. One full-time job in direct farm employment is created for each 17.6 tons of fish maricultured; hence, over 250 local jobs. In 1996, with the authorization of the Mass. Division of Marine Fisheries, FFI began to culture juvenile striped bass obtained from the Crane Aquaculture Center, University of Maryland, in a New Bedford/Fairhaven area land-based facility prepatory to their envisioned placement in grow-out net-pens in Buzzards Bay. FFI's report to The New Bedford Corp. concluded that a pilot project to evaluate growth and survival of Morone saxatilis in a research and development farm should be undertaken over a two-year period. Such an approach would minimize expenses and risks; but,simultaneously, yield valuable data which will permit a sound biological and economic examination of the constraints and benefits and a solid foundation for any further development. At the same time, this project would be used for both public education and the training of those specifically choosing to be aquaculturists. Commercial fishers especially, whose skills are not easily transferable to other occupations, would benefit by becoming aquaculturists, at least to supplement their income during the fisheries crisis, because they already possess most of the requisite knowledge and skill

In spring of 1997, FFI is expanding and consolidating its aquacultural plant at the Andonian Cryogenics factory, 88 Hatch St., New Bedford. FFI requests emergency funding as part of this process. The need for additional back-up equipment and manpower is real and pressing. FFI is beginning to conduct aquacultural operations in previously unoccupied mill-space just northwest of Riverside Park Belleville Avenue Recreational Marine Park. (4. 3.2.2.2) At least two other aquaculture facilities are situated in nearby factory space. Andonian Cryogenics and FFI already have a synergistic relationship as regards hi-tech, when appropriate, or other levels of technological implementation of fisheries science.

Aquaculture's potential as a springboard for intellectual products originating locally meshes with the designated marine science focus for University of Mass., Dartmouth , within the U. of Mass. system's plan. The economic development plan for the Commonwealth of Mass., "Choosing to Compete", identifies southeastern Mass. as the locale for marine science and technology and aquacultural specialization within the state.

Aquaculture is consistent with the City of New Bedford's Economic Development Plan. (3.4.7) Aquaculture is cited as of the highest priority in the Town of Fairhaven's Economic Development and its Master Plan. The report of the Governor's Commission on Commonwealth Port Development identified this area for aquaculture and aquaculture-based educational projects.(4.2.1) Aquaculture is required to conform to govermental programs, policies and laws as identified in the Draft RP/EIS, Chapter 6. Since FFI will only obtain non-genetically altered Morone saxatilis for this project, not only can they be cultured on land; but, they have the potential to be mariculture-ed or utilized for stock enhancement in the wild. (1.3) (5)

The FFISB Project addresses the interests, occupations, and demographics intended to be represented on CRAB. (2.1.2.2) FFISB Project can be implemented in the near term without being affected by cleanup activities. (2.2.1) FFISB Project mitigates injuries which the Trustees have identified as best addressed through remediation and restoration activities.The FFISB Project corresponds to the mitigation required for affected user groups. (2.2.2) FFISB promotes the goal of restoration. (2.2.3) FFISB furthers the commitments of the Trustee Council. (2.2.4)

The FFISB Project conforms to the selection criteria established by the Trustee Council:

1. FFISB will lessen the pressure on the wild harvest fishery stocks. It provides the potential for wild-stock enhancement and a better understanding of the biological ramifications of anthropogenic and natural alterations in striped bass habitat. Services that the resource provided prior to PCB contamination will be restored; namely, fresh higa-quality edible stripers would be available to local consumers, restaurants, processors, distributors, and aquaculturists.

2. FFI envisions harvesting not only be undertaken directly from the upland facility at 88 Hatch St., New Bedford;but, eventually, from grow-out mariculture facilities sited in the New Bedford/Fairhaven Harbor Environment. (See Map 'Potential locations for deep water aquaculture in Buzzards Bay, MA')

3. Mariculture and associated industries located in the New Bedford/ Fairhaven Harbor Environment create additional stakeholders with a powerful economic rationale for insuring high water quality. Land-based aquaculture provides economic, scientific, and educational benefits to the public.

4. As a 501(c)(3) corporation, FFI is not allowed to operate for private profit. FFISB is designed to push forward a sustainable striped bass

(6)

population while creating and maintaining jobs.

5. FFISB will determine the viability of striped bass aquaculture in a re-colonized area mill. It is compatible with the mixed-use nature of the area. As I discussed with Trustee Bullard, once the net-pen grow-out sites proposed for the New Bedford/Fairhaven Harbor Environment receive government approval, they will contribute to the area's aesthetics, particularly as regards the New Bedford National Park. They will help to maintain a vibrant working waterfront. The documented condition of the fish maricultured in the area should help assuage public disdain for the condition of the natural resources of the local marine environment. Tourists and locals could partake of fresh,healthful stripers obtained locally. Mr. Gregory Swanzey, Director, Schooner 'Ernestina' Commission,agrees with FFI that the feeding and harvesting of locally maricultered fish, as well as the deployment and maintenance of the net-pens,would be a tourist attraction.

6.Economic effects of the FFISB Project are easily identified and quantified in terms of direct benefits. Multiplier effects will come into play. Harvest pressures on the wild stocks will diminish. Direct enhancement of the wild stock becomes a possibility.

7. FFISB will utilize proven technologies with high probality of success. The methodology for the culture of Marone saxatilis is a well-developed technique. Whether the physical and chemical environment of the local waters is conducive to the mariculture of striped bass, a species already collected in Buzzards Bay and whose known water quality requirements are met here, awaits analysis of the results of actually doing it here. Land-based aquaculture of this species has been occurring for over a century.

8. FFISB Project should provide a high cost-benefit ratio, although additional data should be generated and analyzed to determine the specific circumstances that prevail locally.

(7)

9. The goal of the FFISB Project is a sustainable striped bass fishery in this area that would be available for consumption, as well as, research and education. The opportunity for community involvement in this project will continue after the Trustee Council's actions have ceased. (2.2.5)

FFISB meets the restoration priority areas agenda established by the Trustee Council:

1) The recirculating systems used by FFI in our indoor systems utilize bacterial filtration to maintain water quality, mimicking the functions of wetlands and marshes and, in effect, replacing these functions.

2) Potential exists for linkage between our facility and the nearby, proposed,Riverside Park Belleville Avenue Recreational Marine Park. FFISB could evolve an enhancement component of benefit to recreational anglers.

3) FFI provides clean saltwater to the fish we culture indoors. FFI has not been able to utilize the saltwater closest to our facility because of the high levels of pollution. FFI is required to transport water from Buzzards Bay,outside of Area III, to replace the nearby saltwater which is unusable because contaminated.

4) FFISB replaces ecosystem services to our cultured stripers,e.g. clean water and food, that had been denied them in the New Bedford/Fairhaven Harbor Environment because of its contamination.

5)The abundance and health of this living resource, Morone saxatilis, would,most likely, improve if FFISB evolves to include an enhancement component. Near term, more and healthful stripers would become available for human utilization.

6) Although not listed as an endangered species, striped bass management plans in place recognize the vulnerability of this species. (2.2.6)

(8)

FFISB correlates well with mitigation of effects upon the affected human environment identified in the Draft RP/EIS. Local citizens have been denied the in-shore fishery opportunities common to most New England estuaries. (3.4.3)&(3.5.3) Generally, this area suffers from reduced economic health as a consequence of the New Bedford/Fairhaven Harbor Environment's pollution. (Table 3.10) There has been an outmigration from the area as a result of the lack of adequately remunerated jobs having a future. Personnel who FFI have identified as crucial to the success of FFISB are being recruited for employment outside this area, already. Only striped bass from a miniscule number of facilities have been approved by MDMF for importation into this state for aquacultural purposes. Demand for these stripers exceeds supply as most facilities no longer produce pure Morone saxatilis which we require for FFISB. Biodiversity in striped bass culture has diminished as almost all growers have switched to hybrid striped bass production. Our ability to maintain our excellent working relationship with the source of the stripers that FFI now holds, Crane Aquaculture Center, University of Maryland, and the ability to retain necessary personnel requires funding which is time-sensitive and requires almost immediate action by the Trustees. (4.2.3)

Since local striped bass in the wild are subject to continuing danger, by providing a protected environment FFISB Project will restore human utilization of this natural resource; apparently conforming to the CERCLA requirements for emergency restoration action. (5.4.4)

Since acknowledgement of stripers as an affected natural resource occurred so late in the planning process, which was designed to have flexibility, and since FFISB was proffered to the Trustees during the allotted time for public comment prior to the finalization of the RP/EIS; the Trustees may prefer to consider FFISB a near-term restoration project because of this recent new scientific finding.

FFI has a successful history of generating matching funds. FFI has always benefited from many hours volunteered to its programs. FFI has the loan of equipment useful to the FFISB Project;e.g.microscope, YSI 55 dissolved oxygen/temperature meter, pH meter and other test equipment, as well as, a complete closed recirculation system outfitted for saltwater fish culture. Funding had been received from The New Bedford Corp., a 501 public funding corporation. Stripers produced as a result of the FFISB Project can be utilized to introduce or reacquaint locals with this native fish and generate further public support.

Almost all of the FFISB payroll will accrue to residents of the four affected communities. FFISB production facilities can serve as a model for future aquacultural efforts in the area. The World Bank predicts that 50% of the total value of the world's seafood will be produced by aquaculture in the year 2010. The aquaculture industry will be required to produce $60 billion in additional product annually to meet this need. This area cannot afford to miss out on this growing sustainable industry.

Standard toxicological testing should be used to determine if the PCB use in the area had contaminated fish cultured upland from the 'Hot Spot' during the FFISB Project at the re-colonized 88 Hatch St. complex. Standard methods can be utilized to determine growth and overall health of striped bass cultured during the FFISB Project. As a requirement of our license to culture 'undersized' stripers, MDMF requires the submission of reports and the right to inspect our facility.

FFISB Project requires funding for a two year period. During this time, not only the indoor culture of striped bass will occur; but, the necessary preconditions would be in place to pursue planning for permit acquisition for the contemplated net-pen mariculture grow-out sites. (See map)

Timeline/Milestones:

Month- 1-3 Assemble staff/obtain and set-up culture system/reconnoiter aquaculture facilities being operated successfully

4-6 Establish biological filtration system/live-transport first stripers to 88 Hatch St.,New Bedford/renew license from,and generate report to,MDMF relative to stripers being cultured/ fish and water quality determined during entire timeframe of project

6-9 Live-transport additional striped bass for FFISB/ travel to symposia/ confer with consultants/ maintain fish and water quality

10-18 Site visits to other aquaculture facilities/ attend conference and symposia/ confer with consultants/maintain fish health

18-24 Live-transport additional striped bass for FFISB/ renew license from,and generate report to,MDMF/ pursue permit acquisition for potential mariculture sites/FFISB Evaluation

Budget-

Payroll&fees		$172,800
a)Project Coordinator	$72,000(3/4time)	
b)Aquaculture Technician	45,500(3/5time)	
c)Utility Personnel	30,000	
d)Witholding(Soc.Sec.&Unemp)	16,800	
e)Consultants	8,500	
Accounting,auditing,&legal		7,750
Insurance		1,500
Rent		7,200
Utilites		980
Fax&phone		2,400
Computer		2,400
D.O./Conductivity Meter		1,435
Fish transport/travel		7,300
Feed/Prophylactics		2,250
Equipment(tanks,pumps,etc.)		4,800
Misc.expenses		5,300
*Total		$216,115

Fairhaven Fisheries Institute
35 Rodman St.
Fairhaven,MA 02719

Telephone (508) 996-9887

MAP - POTENTIAL LOCATIONS FOR DEEP WATER AQUACULTURE IN BUZZARDS BAY, MA

Narrative: This map delineates and notes the surface area (in hectares) of four potential sites for deep water aquaculture in Buzzards Bay (as determined by Sea Forest Plantation Co., Ltd.). It also includes a comprehensive summary of the various data requested for study, including: municipal boundaries, deep water areas, significant coastal development, surface level water temperatures at the three deep water monitoring stations, and excluded use zones (i.e., cable, navigation, anchorage, fish trapping, dump, disposal and spoil areas).

Source(s) of Information:

- Potential Aquaculture Areas - compiled by the Boshe Institute from longitude and latitude locations provided by Sea Forest Plantation Co., Ltd.
- Navigation Channels - compiled by the Boshe Institute from nautical charts (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Edition 25, June 1983) into a digital map database (1:40,000 scale)
- Cable Areas - compiled by the Boshe Institute from nautical charts (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Edition 25, June 1983) into a digital map database (1:40,000 scale)
- Anchorage Areas - compiled by the Boshe Institute from nautical charts (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Edition 25, June 1983) into a digital map database (1:40,000 scale)
- Fish Trapping Areas - compiled by the Boshe Institute from nautical charts (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Edition 25, June 1983) into a digital map database (1:40,000 scale)
- Spoil, Dump and Disposal Areas - compiled by the Boshe Institute from nautical charts (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Edition 25, June 1983) into a digital map database (1:40,000 scale)
- 30 foot Water Depth Contour - compiled by the Boshe Institute from nautical charts (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Edition 25, June 1983) into a digital map database (1:40,000 scale)
- Municipal Boundaries - boundary file for the State of Massachusetts, MASSGIS

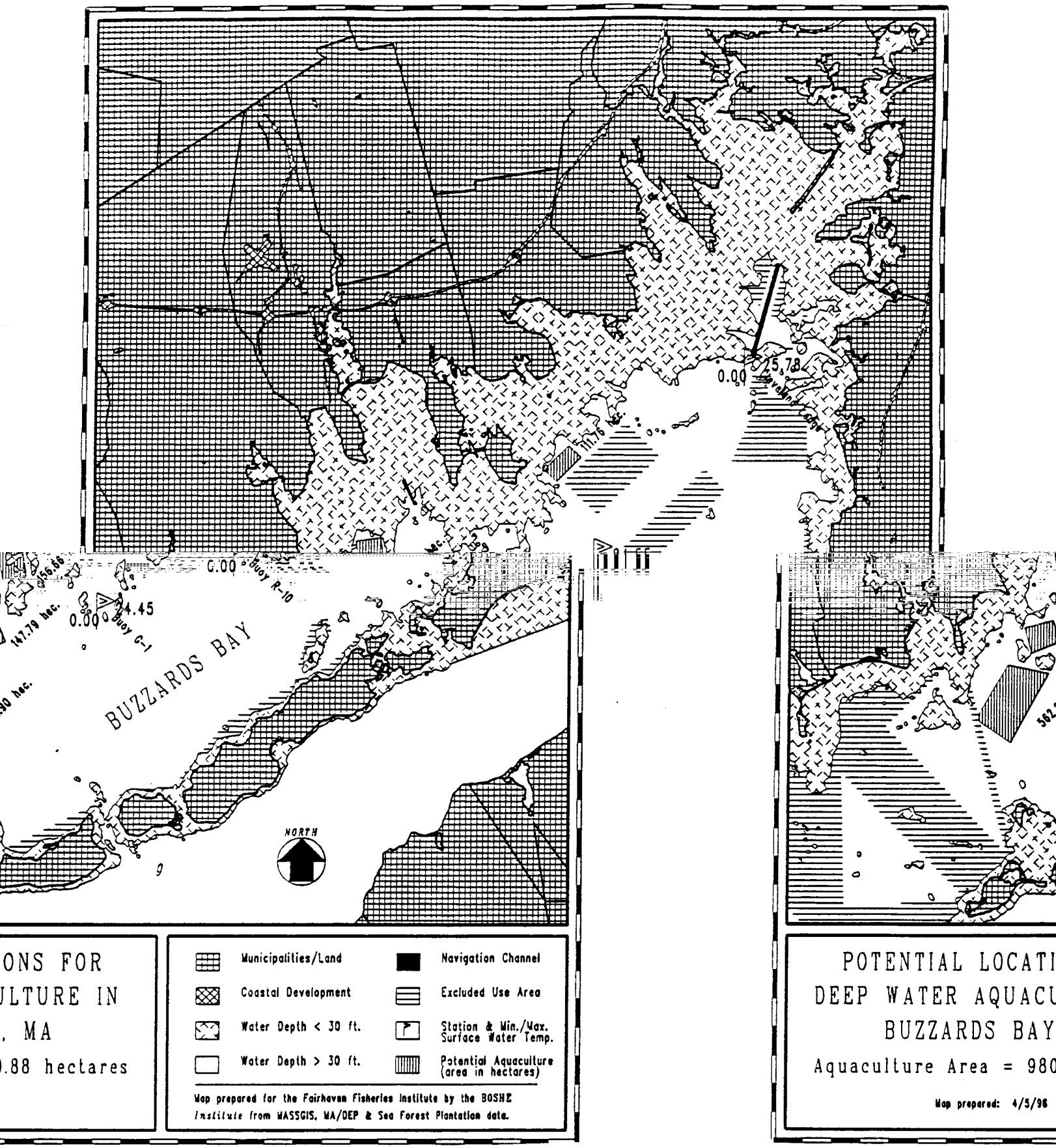
- Water Monitoring Stations - from "Plankton & Water Quality in Buzzards Bay, Mass., Oct. '87 - Sept. 1990." J. T. Turner, D. G. Borkman and R. W. Pierce. Prepared for the Massachusetts Department of Environmental Protection, Office of Watershed Management, Research and Demonstration Project 87-15. March, 1994.
- Station Locations - from longitude and latitude locations provided by the Fairhaven Fisheries Institute.
- Minimum and maximum water temperatures, dissolved oxygen, depth of monitoring, and cruise number - compiled into a digital database by the Boshe Institute from sources in appendix '1' and '7' of Turner et al.

Notes: All data referenced compiled for Buzzards Bay only. Other areas shown are approximations of data.

The final representation and delineation of aquaculture areas have been redefined to not include "Excluded Use Areas" indicated on the map. Surface area measurements (in hectares) calculated from map data, and do not include "Excluded Use Area" intrusions into delineated aquaculture areas.

Minimum and maximum surface level water temperatures calculated from 45 samplings taken at eight water monitoring stations in Buzzards Bay between October, 1987, and September, 1990, and documented by Turner et al.

Date Map Prepared: April 5, 1996, for the Fairhaven Fisheries Institute by the Boshe Institute.


BUZZARDS BAY
NORTH
0.00
Buoy R-10
Buoy C-1
Municipalities/Land
Coastal Development
Water Depth < 30 ft.
Water Depth > 30 ft.
Navigation Channel
Excluded Use Area
Station & Min./Max. Surface Water Temp.
Potential Aquaculture (area in hectares)
Map prepared for the Fairhaven Fisheries Institute by the BOSHE Institute from MASSGIS, MA/DEP & Sea Forest Plantation data.
Map prepared: 4/5/96

DARTMOUTH NATURAL RESOURCES TRUST
PO BOX P-17, DARTMOUTH, MA 02748 (508) 991-2289

Comments: P-1, N-8

A Non-profit Land Trust

June 2, 1997

Jack Terrill,
Coordinator
New Bedford Harbor Trustee Council
One BlackBurn Drive
Gloucester, MA 01930-2298

Dear Mr. Terrill:

On behalf of Dartmouth Natural Resources Trust, Inc., I want to express again my support for the Padanaram (Draft Restoration Plan EIS/EIR,4.3.1.2.1) and Nonquitt Salt Marsh (Draft Restoration Plan EIS/EIR,4.3.1.2.2) restoration proposals.

The marsh restoration proposals will improve the health of the respective marshes by increasing their tidal exchange. The resulting habitat improvement should, in turn, benefit the region's fisheries and improve the economies that rely on them.

In addition, the Nonquitt Marsh Proposal provides for the expansion of public access to DNRT's Smith Farm Reserve. The expanded trail system will be an important recreational and educational asset for the surrounding community.

Dartmouth Natural Resources Trust is a non-profit land trust with 700 members. The Smith Farm Reserve, which encompasses 2/3 of the Nonquitt Marsh, is our largest reserve.

Thank you for your consideration.

Sincerely,

Steve Sloan
Executive Director

Printed on 20% post-consumer recycled paper

JAMES P. McGOVERN
3RD DISTRICT, MASSACHUSETTS

COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

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WATER RESOURCES AND ENVIRONMENT

Congress of the United States
House of Representatives
Washington, DC 20515–2103

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WASHINGTON, DC 20515–2103
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34 MECHANIC STREET
FIRST FLOOR
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218 SOUTH MAIN STREET
SUITE 204
FALL RIVER, MA 02721
(508) 677–0140

http://www.house.gov/mcgovern/

Comment: G-3

June 4, 1997

The New Bedford Harbor Trustee Council
1 Blackburn Drive
Gloucester, Massachusetts 01930

Dear Council Members:

I write to express my strong support of the New Bedford Harbor Trustee Council's community-oriented efforts to restore and enhance environmentally-damaged habitats of Dartmouth, Massachusetts, and all of the New Bedford Harbor.

Those people most directly affected by these clean-up activities are among our best resources for effective and practical decision-making regarding restoration efforts. I strongly advocate a grassroots effort which incorporates the interests of the entire community, including supporters and non-supporters, of any proposed use for these federal funds. To this end, I support the Council's efforts to accomplish this goal.

Alternatively, "no action" by the Council is unacceptable, as it leaves environmentally-sensitive habitats in Dartmouth and the entire Harbor without a course for recovery. Now that the Environmental Protection Agency is close to a Record of Decision with regard to the overall clean-up procedure, there is no reason to wait. We must proceed with the clean-up and restoration because every year that passes makes the task of restoring the natural habitats of shellfish and other wildlife more difficult -- and ultimately unachievable at any reasonable cost. Our environment does not wait -- it continues to decline. The answer is obvious: we must act now.

And we must act because the most important legacy that we can preserve for future generations is a safe and clean environment. Each of us has benefited from the environmental strides made over the past three decades. We must continue to do more. We must work toward the day when concern for the environment is no longer the catastrophic threat of pollution but maintenance of a healthy and thriving eco-system. To that end, I want to enthusiastically work with the Council.

The preservation and restoration of our environment is critically important to our future, to our children and to our overall well-being. That is why the New Bedford Harbor Trustee Council's efforts to improve the environment has my strong support. Further, I strongly endorse continuing rounds of project funding before the PCB clean-up is complete so that our environmental goals for Dartmouth and all of New Bedford Harbor can be achieved.

I thank you for your consideration of my comments.

Sincerely,

James McGovern
Member of Congress

JM:dm

United States Department of the Interior

FISH AND WILDLIFE SERVICE
300 Westgate Center Drive
Hadley, Massachusetts 01035-9589

Comments: T-4

In Reply Refer To:
FWS/Region 5/ES-TE

JUN 19 1997

Mr. Jack Terrill
New Bedford Harbor Trustee Council
National Marine Fisheries Service
One Blackburn Drive
Gloucester, Massachusetts 01930-2298

Dear Mr. Terrill:

The purpose of this letter is to provide you with my support for the New Bedford Harbor project proposal, Restoration and Management of Tern Populations. This project proposal addresses essential conservation and management needs of both common terns (*Sterna hirundo*) and endangered roseate terns (*Sterna dougallii*) on three Buzzards Bay islands, Bird, Ram and Penikese.

The Buzzards Bay population of roseate terns is a significant part of the North Atlantic population of this endangered species. The protection and conservation of the roseate terns at Bird and Ram Island are critical to the species' survival and recovery. These islands are two of the three largest remaining nesting colonies of this species, and together support nearly 50% of the nesting pairs in the entire North Atlantic population. Ram and Bird Island are currently subject to partial over-washing and are suffering serious storm erosion. One component of the proposal involves protection from erosion of tern nesting habitat on Bird and Ram Islands.

I believe that it is entirely appropriate to utilize a portion of the New Bedford Harbor settlement fund for the Restoration and Management of Tern Populations project. Roseate and common terns have been adversely affected by PCBs released from facilities in New Bedford. The tern restoration proposals published in the EIS/Restoration Plan would directly fulfill the requirements of the natural resource damages settlement to restore natural resources injured as a result of PCB releases to the environment. Additionally, it will have direct and long-lasting benefits to one of Massachusetts most distinctive endangered species, the roseate tern.

Sincerely,

Ronald E. Lambertson

Ronald E. Lambertson
Regional Director

JUN 23 1997

City of New Bedford

OFFICE OF CITY COUNCIL
133 William Street • New Bedford, Massachusetts 02740 • (508) 979-1455

George Rogers
Councillor at Large

City Council President

Comments: G-1, R-1

Mr.Jack Terrell,Ex.Dir.
NEW BEDFORD HARBOR TRUSTEE COUNCIL[
2 Blackburn Dr.
Gloucester,MA 01930-2298

4-27-97

Dear Mr. Terrell:

Following today's Standard-Times front page story about the inexplicable rush to move forward in spending trust fund monies on remediation projects that have nothing whatsoever to do with the NEW BEDFORD harbor, I felt another letter for comment purpos would be in order.

While I do not purport to speak for all eleven councilors, I can say without any fear contradiction that my words embrace the feelings of a majority of the body, feelings w have already expressed in more than one vote taken on this issue. In fact, at our last meeting, the body voted to refer to the Ordinances Committee my motion to move forward rezoning the Pierce Mill site-so-called, in preparation for what we envision as a mult use park, recreation and open space area, something we feel the area deserves and some thing that, in justice, should be provided, given the fact that the PCB pollution cau most of its damage here, not 6 or 7 miles away in NONQUIT!

At any rate, let this be another letter or comment, urging the Council to agree to the Pierce Mill recreation,park, open space concept which we have advanced in more than one forum, including a "charette" held a couple of weeks ago in the heart of the very community which has been most consistently impacted by the PCB problem. Indeed, my sug gestion that the area be put into recreational park and open space use , endorsed by Ward 2 Councilor Paul Koczera , in whose ward the area is located, was roundly applaud by the participants.

Accordingly, I again urge you and the Council members to authorize this project and pr vide the needed funding.

Sincerely,

George Rogers
Council President

CC: Coun.Koczera

Residence and Office: 23 Robeson Street • New Bedford, MA 02740 • Tel. (508) 996-2716
FAX: (508) 997-2262

IN CITY COUNCIL, May 6, 1997
Endorsed.

Janice A. Davidian, City Clerk

Presented to the Mayor for approval May 8, 1997

Janice A. Davidian, City Clerk

Returned unsigned May 30, 1997.

a true copy, attest:

City Clerk

JUL - 7 1997

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

Comments: G-14, G-15, G-16, G-17, G-18, G-19, G-20, G-21, G-22, G-23, G-24, G-25 R-4, R-5, B-2, SH-4, HE-2

July 2, 1997

OFFICE OF THE
REGIONAL ADMINISTRATOR

John Terrill
NOAA, National Marine Fisheries Service
1 Blackburn Drive
Gloucester, Massachusetts 01930-2298

RE: Draft Restoration Plan Environmental Impact Statement/Environmental Impact Review for the New Bedford Harbor Environment

Dear Mr. Terrill:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Draft Environmental Impact Statement (DEIS) for the New Bedford Harbor Restoration Plan in New Bedford, Massachusetts. We recognize the importance of the plan and appreciate your patience waiting for our formal review comments. We apologize for any inconvenience our delay may have caused.

As you know, discharges of PCB's into the New Bedford Harbor have resulted in significant environmental damage, economic loss and erosion of the quality of the human environment. EPA has been actively involved in ongoing efforts to remediate polluted portions of New Bedford Harbor and has encouraged and supported the New Bedford Harbor Trustee Council (NBHTC) efforts to initiate implementation of smaller-scale, short-term projects that catalyze natural resource restoration within the harbor. The DEIS describes a range of immediate, future and emergency actions, plans and studies intended to serve as the foundation for an estuary-wide plan to restore the affected portions of the harbor. Additionally, the DEIS chronicles the public process developed to generate a list of restoration projects to restore natural resources injured by PCB releases to the harbor. EPA actively supports the goals of the NBHTC to restore natural resources damaged by PCB's as well as human uses of those natural resources in the harbor. We believe there are many opportunities to restore a wide range of natural resources and uses in the harbor during and following completion of the cleanup of contaminated sediments within the harbor.

In general, EPA endorses the 12 preferred alternatives selected by the NBHTC for "near-term" implementation. We support implementation of preferred restoration alternatives that will maximize environmental benefits without conflicting with the ongoing harbor cleanup activities. In some cases, however, this may require that various restoration activities, or portions thereof, must be properly timed to be successful in the context of the overall cleanup process. We are also concerned that some of the restoration projects have the potential to resuspend highly

contaminated sediments. To that extent, EPA does not support activities that would increase or alter the spacial extent of PCB contamination as a result of resuspension. EPA has worked, and will continue to work, with the Trustees to ensure that none of the restoration work will interfere with or delay the Superfund remedy for the harbor. The FEIS should indicate that all activities conducted to support restoration projects will be coordinated through the EPA before they begin. Additionally, we believe that the phased approach (in conjunction with the cleanup) for restoration activities is a practical and effective strategy.

According to the DEIS, the NBHTC proposes to solicit ideas for additional future restoration actions, "periodically selecting restoration actions that are practicable, effective, and appropriate in the context of the ongoing cleanup." We continue to believe that the proposed Aquarium and Marine Science Center can directly benefit New Bedford Harbor through its ability to educate and build understanding and respect for natural resources; study how fisheries can be restored to the harbor; convert blighted waterfront property to clean, positive use; and improve access to the waterfront. We hope the NBHTC gives positive consideration to the Aquarium and Marine Science Center during its next round of restoration project evaluations.

In conclusion, for the reasons above, EPA has rated this EIS "LO-1 Lack of Objections-Adequate" in accordance with EPA's national rating system, a description of which is attached to this letter. This rating is based on EPA's evaluation of the information provided for the restoration plan and our conclusion that the FEIS should correct several inaccuracies and provide additional technical information associated with various alternatives. We believe our concerns can be resolved in the FEIS and we look forward to working with you to move the harbor restoration process along to the point of implementation. Please feel free to contact Timothy Timmermann of my staff at 617/565-3279 if you wish to discuss these comments further.

Sincerely,

Elizabeth A. Higgins
Director, Office of Environmental Review

Attachments

cc:
Congressman Barney Frank
David Dickerson, EPA
Cynthia Catri, EPA
Ed Reiner, EPA
Phil Colarusso, EPA

Technical Comments

Section 1.2.2

Comment G-14

While the cleanup is directed at removal of PCB contaminated sediment, EPA believes that the FEIS should reflect that the areas of highest metals contamination will also be removed.

Section 1.2.4

Comment G-15

While it is true that the cleanup will leave behind sediment with PCB concentrations below 10 ppm in the upper harbor and below 50 ppm in the lower harbor, it is inaccurate to imply that the PCB and metal sediment contamination is the only problem in the harbor. Combined sewer overflows, which are not within the scope of the Superfund remedy, also contribute to natural resource damages.

Section 2.1.1

Comment G-16

CERCLA allows EPA to recover response costs addressing the release or threat of release of hazardous substances which harm human health and the environment. This includes natural resources damages. It is unclear if this section of the DEIS addresses only an assessment of natural resources damages since the first paragraph includes in the assessment a consideration of the amount of money needed to cleanup the contamination. Remediation is a separate action from NRD restoration activities. The FEIS should clearly explain that EPA activities address risks posed to human health and the environment and the Trustees activities address natural resource damages.

Comment G-17

Additionally, the definitions of "injury" and "site" include oil within their scope. This should be clarified if used in the context of EPA's activities under CERCLA since CERCLA's definition specifically excludes petroleum (42 U.S.C. §9601 (14)). EPA considers used oil (which contains hazardous substances) to be within the scope of CERCLA.

Section 2.1.1.2.1

Comment G-18

The second paragraph of the DEIS indicates that CERCLA requires EPA to work with the U.S. Coast Guard to respond to and clean up all hazardous releases. The FEIS should reflect that the U.S. Coast Guard has been delegated to be the lead response agency for releases in maritime areas only.

Section 2.1.3.2

Comment G-19

The FEIS should provide clarification to reflect that the January and May, 1992 Proposed Plan and Addendum were all one proposal for remediating the Harbor and Upper Buzzards Bay rather

than two separate phases of the cleanup.

Additionally, this section mischaracterizes EPA's actions in 1995. EPA did not revise the 1992 Proposed Plan through the community forum and then present a revised version in 1995. The revised Proposed Plan for ROD 2 was issued in November 1996. In April 1995, EPA outlined for the community forum (as well as for the public through cable and newspaper announcements) its conceptual modifications to the 1992 proposed plans based on public and resource agency comments received during the comment period held on the 1992 plans. This concept originally included a proposal to locate one of the CDF's in the cove area. Any reference to a 1995 version of a Proposed Plan should be deleted, since no such document exists.

Section 2.2.2

Comment G-20

The Trustees have identified injuries best addressed through restoration and remediation. EPA disagrees that development options are limited by disposal of contaminated materials. In fact, EPA believes just the opposite; that development opportunities are available through the use of CDF's for things such as marine facilities, parks, and recreational use.

Section 2.2.7.4

Comment G-21

The Trustees identified the Acushnet River north of Wood Street as a restoration area not likely to be affected by the cleanup. EPA would like to clarify that preliminary sampling of this area indicates that certain areas north of Wood Street are indeed contaminated above the 10 ppm TCL. These areas will be included in EPA's remedial program. EPA reminds the Trustees that a Feasibility Study Addendum for the hot spot sediments is expected to be issued in early 1998. Additionally, EPA intends to issue another decision document for the hot spot sediment currently stored in a CDF at Sawyer Street. An additional decision document will also be required for "phase 3" of the harbor cleanup for the outer harbor area.

Section 3.2.1.2

Comment G-22

The second and third sentences of the first paragraph appear to contradict one another. The second sentence indicates that in the outer harbor there is a net transport of sediments seaward, while the third sentence says essentially the opposite. The FEIS should correct this inconsistency.

Section 3.5.1.2

Comment G-23

While it is true that EPA has set an action level of 50 ppm below the Coggeshall Street bridge (PCB-contaminated sediment below that level will not be dredged), it is inaccurate to say the result is that significant PCB concentrations will remain in this part of the harbor. In fact, according to Figure 3-5, most of the remaining sediment concentrations fall either within the 1-10 ppm range or less than 1 ppm. In addition, should navigational dredging go forward in the harbor, contaminated sediment within the channel will be removed thereby further reducing the

amount of contaminated sediment below the Coggeshall Street bridge.

Section 4.3.2.2.2

Comment R-4

The Riverside Park Belleville Avenue Recreational Marine Park project would create an inner harbor coastal park that may include a boat ramp or pier for recreational use, marsh restoration or other enhancement of coastal habitat. The DEIS documents that park construction or wetland restoration would "have to wait until cleanup of the cove, and possibly the Upper Estuary, is completed." This project borders a cove which is presently dominated by fringing salt marsh and intertidal mudflat all of which is targeted for dredging. This cove represents one of the greatest in-harbor opportunities for salt marsh and mudflat restoration. While EPA itself will replace some natural habitat lost as a result of dredging, the Trustees should also consider the value of this area for salt marsh and mudflat restoration. Plans for a boat ramp or pier at this location may conflict with such natural habitat restoration objectives.

Comment R-5

EPA would like to reiterate that close coordination and control of timing must be brought to bear for this proposed project. EPA agrees that the concept of a marine related park in this area is a good one, especially if either of the surrounding CDF's B or C can be linked into a park system. The potential problem we see, however, is that such a park would inevitably attract people to the areas containing contaminated sediments. Therefore, EPA supports the DEIS statement that creation of the park would wait until the upper harbor dredging is completed (remedial dredging will proceed north to south) or EPA believes that the park should be constructed in such a way as to restrict access to the shore (e.g., using hedgerows or fences) until the dredging is complete.

Section 4.2.1

See comment to section 2.2.7.4 regarding remediation above Wood Street Bridge.

Section 4.3.1.1

Comment G-24

The FEIS should note that in addition to EPA's proposal to remove portions of the marsh which exceed 50 ppm PCB's, EPA also proposes to reestablish the saltmarsh in those areas destroyed by dredging.

Section 4.3.3.2.1 Hurricane Barrier Box Culvert

Comment B-2

The rationale section for this restoration proposal in the DEIS incorrectly references EPA's measurement of PCB flux, and the overall discussion of existing impacts and potential improvements is speculative in nature. The 0.5 lb/d flux rate referenced here is the flux from the upper to the lower harbor (using EPA's definitions) **as measured at the Coggeshall Street bridge** during 1994 and 1995. Thus the barrier is not a significant factor in this 0.5 lb/d flux rate, and the actual flux from the lower to the outer harbor (as measured at the hurricane barrier) has

historically been much lower. Before any new culverts are installed, EPA believes that the water quality impacts of such an undertaking should be thoroughly studied. Perhaps the academic community could be called upon to study or model these impacts. At a minimum, EPA suggests coordination with the various Buzzards Bay stakeholders. If it is determined that a new culvert would be an overall benefit, EPA agrees that it should be installed after the ROD 2 dredging is complete.

Section 4.3.5

Comment HE-2

Although we support the Herring Run Restoration project, we are concerned that fish may accumulate PCB's while traveling through the harbor. The FEIS should explain how the restoration project will be implemented or delayed (through institutional controls or otherwise) until the harbor sediments are cleaner.

Sections 4.3.5.2.1 and 4.3.7.1.2

Comment SH-4

EPA reiterates its concern for close coordination between the Trustees and EPA when planning and conducting shellfish surveys or transplants. EPA believes that more information on the degree of sediment resuspension from power dredges is required before use of this type of equipment is allowed in areas of sediment with high PCB contamination. EPA also reminds the Trustees that two localized areas of high PCB contamination exist south of the hurricane barrier (near the Cornel-Dubilier facility). Care should be taken when performing shellfish surveys or relays in these areas as well.

Section 5.1

Comment G-25

The DEIS incorrectly states that "some of the CDF capacity will be reserved for sediments from navigational dredging projects." More correctly, capacity is reserved for an interim cap to cover the contaminated sediments during initial settlement. Depending on a number of logistical and cost considerations, this interim cover may or may not be made up of navigational sediments. The report also states that the CDF's may be usable as wharves. EPA notes the potential for a number of other reuse options, including some that may be of interest to the Trustees (e.g., shoreline open space, bird sanctuaries). EPA believes that at least parts of CDF's A, B and C should be reserved for natural resource enhancements, including the intertidal and subtidal areas of the seaward facing berms and looks forward to additional discussions with the Trustees concerning this matter.

Comments: G-3, G-5, G-13, R-2, R-3

Public Hearing Transcript

New Bedford Harbor Trustee Council
Hayden-McFadden School
361 Cedar Grove Street
New Bedford, MA 02740
May 22, 1997

Note: Transcript has been reformatted from original. Original is on file with the New Bedford Harbor Trustee Council

VOLUME 1
PAGES 1 - 40

COMMONWEALTH OF MASSACHUSETTS

IN RE: NEW BEDFORD HARBOR

NEW BEDFORD HARBOR TRUSTEE COUNCIL

Hayden-McFadden School
361 Cedar Grove Street
New Bedford, MA 02740
May 22, 1997

MS. SOUZA: I'm Elsie Souza, and I'm representing Congressman Barney Frank.

"Dear council members, we write to express our opinions on the most beneficial expenditures of the funds administered by the council for the restoration of New Bedford Harbor.

We initially wish to register our strong disagreement with those who believe that no restoration funds should be spent now. The restoration fund, originally $20 million, is now a higher amount because of the interest that has accrued since the council agreed to place the money in an interest bearing account. The people who live in the greater New Bedford area have significant environmental and other needs, and we believe it would be a mistake to simply let this money sit unspent, except for the administrative expenses that are incurred by the council for office space and related expenses, until the entire Harbor Restoration Project is completed.

Citizens with difficulty finding adequate public funds for a variety of environmentally important projects ought not to be denied by some form of bureaucratic delay, the benefit of funds which were contributed expressly for their benefit for use in such projects. We were pleased when you agreed to begin the process of accepting applications. We know that it's possible for you to proceeded not just with the implementation of this round, but with the initiation fairly soon of a second round without in any way interfering with the use of this fund, which, after all, exists in part in response to a congressional mandate.

For example, we believe that the preparation of a Harbor Master Plan, the funds for Sconticut Neck in Fairhaven, and the fund for parks in New Bedford are obvious legitimate uses of those funds, and it is impossible for us to conceive circumstances in which they would be unwise or unnecessary uses no matter what the outcome is of the PCB disposal issue.

We also strongly believe that there are other very important projects which you should begin considering which would significantly increase the ability of the people of the greater New Bedford area to benefit from the harbor. One of the most important of these is the plan for the development of an aquarium on the waterfront, an obvious harbor related use which is widely recognized as being of great benefit for the city. We believe it would be a grave error to decline to consider a second round of proposals that could include this and other valuable projects while we are in the implementation stage of the first round.

As members of Congress, we are very conscious of the fact that these funds exist for the benefit of the people in the New Bedford area and ought to be used to enhance their ability to recover the full use of an asset that was diminished by environmental mistakes. Keeping millions of dollars of funds in a bank account for an indefinite period, except for administrative withdrawals, does not serve this purpose.

We do not mean to endorse every proposal that you have put forward for the first round. The expenditure in Nonquitt, for example, seems a dubious one given the priorities that we ought to be following, and we urge you to look very carefully at the thoughtful objections that have been proposed to the tern and sea gull population issue.

But we write this letter to strongly support the general thrust of these proposals and to urge that once final decisions have been made, an implementation has begun on them, you initiate a second round in which equally important proposals, such as the aquarium, can be brought forward and subjected to this process."

And it's signed by Senator Edward Kennedy, Representative Barney Frank, and Senator John F. Kerry.

MR. TERRILL: Thank you, Elsie. Next up, Brian Rothschild.

MR. ROTHSCHILD: Maybe I'll just speak to everybody. My name is Brian Rothschild. I'm director of the Center of Marine Science and Technology at the University of Massachusetts Dartmouth. We have several programs that relate to --

AUDIENCE: I can't hear you.

MR. ROTHSCHILD: As I said, my name is Brian Rothschild. I'm director of the Center of Marine Science and Technology at U-Mass Dartmouth. The center has several programs that relate directly to the subject matter covered in the EIS. These programs include fisheries, monitoring of marine systems, shellfish management, the development of new monitoring for Buzzards Bay and Cape Cod, the Cape Cod area. And we also are embarking on a large aquaculture program. Me and my colleagues have gotten together and we've discussed the draft statement and we think it's generally very good.

We do suggest, however, that there's a very, very strong need to include the development of baseline studies so we can study the affect of the restoration and how it is developing into the future and to separate the natural changes in the environment from those that result from the restoration.

I would just point out in closing that our new laboratory will be opening in a month right in the middle of Area 2 in the restoration area. It has 15 laboratories, a running seawater system. It's completely equipped to do all sorts of chemistry and analysis. So we just stand ready to be part
of the institutional mechanism and institutional development that results from the restoration.

I would add in closing that we've been working closely with the aquarium looking at science, education, and economic development, and we have also been working with the Buzzards Bay Coalition, and so we see ourselves, as our laboratory opens, to be part of the community, part of the effort, and we look forward to progress in the restoration. Thank you very much.

MR. TERRILL: Thank you, Brian. Next is John Andrade.

Comment G-5

MR. ANDRADE: Excuse me if I don't sound totally familiar with the entire topic that we're talking about here today, but I am very concerned with the aspect of $23 million being available in the city of New Bedford to correct past environmental problems. I am very familiar with the brown fields concept and the environmental justice issues that concern the entire area of

superfund projects and dealing with the environment in general. We have a particular concern in regards to how these moneys will actually be spent to benefit the people of New Bedford and particularly the older neighborhoods in the city that have been affected by the economic downfall that we've seen over the last 15 years. I am very concerned with types of economic developments that will be done with this type of money and how they will actually impact the neighborhood that I am from, the South Central Old Bedford Village neighborhood, which is adjacent to the waterfront and the William National Park. We are very concerned with getting dollars and cents to help revitalize this neighborhood as well as to rejuvenate the economy of that neighborhood. We feel, one, that the waterfront is a very important part of that, and of course, the aquarium project is very high on our list of projects that should be financed through the city, federal, and state fund and particularly through this Trustee Council fund that it has available.

We are also concerned with what types of funds could be utilized to help rectify the problems that have been caused by the Morse Cutting Tools building in the South Central neighborhood. That building, which is now in the process of being dismantled, we know that has been deemed as an oil spill site by the Department of Environmental Protection. There had been an emergency response clean up there in 1992. We presently have two 21E's that show that there is presently close to 60,000 gallons of oil in the tunnels underneath the east building on the Purchase Street side of the Morse Cutting Tools facility. And we also know that there is a tunnel that leads from the Wing Street all the way to the harbor. There's a tunnel underneath the street that leads right to the harbor where the oil is leaking into the harbor.

So we find it very hard to find that there is a superfund project going on right now dredging the harbor at the same time that federal and state officials know that there is oil being leaked into the harbor as we speak, particularly from this particular site. And as I reiterated, this information is on record at the DEP in Lakeville. And we also have a 21E concerning the building known as the St. James Old Catholic School that when we did a 21E on that particular building, it shows where the contamination from the Morse Cutting Tools has leaked over to the St. James building and where the 21E shows how the tunnel that from goes from Wing Street all the way down to the waterfront some thousand yards leaking into the harbor.

We are concerned that the necessary cleanup for that area may be affected by what contamination has been left by the Morse Cutting Tools. I am very puzzled to find that all of the coordination that was done with the federal courts saying whether it's Copper, Revere & Brass, Cornell Dubleir, Dubilare, or whatever the other companies that were involved with the contamination of the harbor that Morse Cutting Tools, Gulf, and Western Paramount Company and all of the above corporations that are involved with the Morse Cutting Tools facilities industrial complex since 1861 has been overlooked as very large contaminator of our neighborhood, the oils and other types of contaminants that we are aware of that were spilled and let out into the air as well as into the ground by this particular site and how it's not included in the overall cleanup of the city of New Bedford. It makes no sense to me to clean up the harbor and to leave the land adjacent to the harbor still contaminated. We have just recently received from the DEP a report that was done back in February showing definite contamination of the soil in the area and potential air contamination because of the soil that is contaminated in that area. And the air that is contaminated may be in the houses of the people who live in that

area. We have been able to demonstrate some 60 residents of that area who have died through certain types of cancer and upper respiratory diseases. We have also been able to determine that there have been lot of workers who worked at Morse Cutting Tools who are also deceased because of certain contaminations.

So we feel that there should be a wider or broader look at the picture and how it would better include what is being determined and how it can best affect the economic revitalization and also the cleaning of the South Central Bedford Village neighborhood and how it also would affect and compliment the surrounding neighborhoods and the waterfront and the downtown district. We feel that a lot of this money should go back into economic development.

I'm not saying that other ideas that have been put forth are not good and worthy ideas, but it was all contaminated because of economic development that this city prospered off of from the days of the whaling right up into mill days of the industrial revolution. That prosperity that came to New Bedford is now also killing New Bedford. And how do we make that come back and bring it back to the people who should benefit from it, which is the citizens of the city? And not just my neighborhood. I want to make it very clear that just because I'm a person because of Cape Verdian descent that I'm not here talking about something that should be just for our people, for our community. We're looking for the entire city of New Bedford to benefit from this, but more so from the economic development point of view than just cleaning up the harbor. Thank you.

MR. TERRILL: Thank you, John. Next up, Steve.

MR. CASSIDY: I have a statement that I was going to read but --

MR. TERRILL: Can you come up, Steve.

MR. CASSIDY: Steve Cassidy. I had a statement that I was going to read, but I've decided that rather than read it, I'll simply pass it out to the members of the Trustee Council and their staff.

Because to many of you, it won't make too much sense unless you knew the background. My statement is primarily a criticism and a critique of the process by which the Trustee Council and their staff arrived at their selections of projects. My criticisms are directed to their method of selection, and unless you were on the scene at the time this was going on, the meetings of CRAB and the joint meetings of CRAB and the Trustee Council, there'd have to be a lot of filling it in for it to make any particular sense.

So rather than waste the time at the meeting when other people have things to say, I'm simply going to pass the statement out to all of the members of the Trustee Council and their staff, anybody from CRAB that's here, and anybody else who wants a copy. And that's all I have to say.

MR. TERRILL: Thanks, Steve. Do you have that copy for us?

MR. CASSIDY: In a minute. Presses are still running.

MR. TERRILL: Next, Chris Moriarty.

MR. MORIARTY: My name is Chris Moriarty. I'm a member of CRAB, and I'm from the town of Dartmouth. The reason I wanted to speak this evening was because this is supposedly just a draft plan, and I have several questions. I have taken part in the evaluation of these proposals. I, like Steve, have some questions about how it was done, but that's neither here nor there. What I would like to bring out is that all of these proposals should be held up to the light of day; namely, some things are quite positive.

For instance, CRAB voted to put some funds up for a study of the aquarium. Not to sell it, but to study it. For instance, I was in Florida for the winter and had a chance to go to the aquarium in Tampa. And on the television, I was quite surprised to find out after one year of operation they laid off 400 people and they are having one hell of a hard time. I have not heard that up here. I have not seen any negatives brought forward. And I'm not saying you shouldn't do something. But damn it, let's do this thing honestly. Any proposal should be able to stand up to the light of day.

The proposal of Nonquitt, should it have its detractors, and they should be able to speak and then it should be evaluated. As far as I'm concerned, there are no gods here. And I'm only speaking for myself as an individual and a member of CRAB. But for instance, the shellfish in the harbor the gentleman was just speaking, he was talking about, Oh, going into the harbor. The shellfish is polluted. A study was supposed to be done. All of a sudden, there are no CRAB meetings. We are suffering from a lack of communication; when the state study will be done, when the funds will be turned loose to try and do something about the contaminated shellfish in the harbor. And whatever we propose or whatever we are in favor of should be held up to the light of day as well. And it shouldn't be a sales pitch. And that's only my comment. It doesn't make it write or wrong. But guess what? There are facts, and some facts stink. And some of the costs stink. And yet, I have not got answers that they have been held up to the light of day just as ours have. I agree with what the senator said: let's free up some of this money and let's get some of these people to work. Because it's about work, people, and what happens in this harbor. And it should also be pointed, and I'm sure it has before, that these funds are definitely restricted and that many people who have an idea of accessing them is the court. And anybody who wants to contact any member of CRAB, please fell free to do so, because that's what we're supposed to be doing, we're supposed to be putting forth your ideas of what you think you would like to find out. And I agree. It's about time that we heard something about a second round of proposals. And I'd like to see it in writing how we're going to handle it. I hope it's a heck of a lot better than we tried to handle it first. Because those of you who remember, we, as CRAB, were used as a punching bag by the Standard Times. We were used as a punching bag by anybody who wanted something and didn't have a target. Of course, what they are saying turned out not to be true, but I never saw one retraction in the Standard Times.

So all I'm asking is, let's do this fairly so that the public will feel that their money -- and it is their

money -- is being spent to their best benefit. So anything that I'm willing to back, I'm willing to hold up to the light of day. I hope everybody else is as well. Thank you.

MR. TERRILL: Thank you, Chris. Next up, Paul Bizarro.

MR. BIZARRO: My name is Carl Bizarro. I'm chairman of the Neighborhood United, which is the crime watch organizations of neighborhood groups in the city. I have, actually, some questions about the preferred alternatives referring to the development of Riverside Park recreational area. I don't know what that is exactly and what's meant by that. Does anyone know what that is? What area specifically are you talking about?

MR. TERRILL: You know where the playground area is down there now, it would be developing that area heading east -- I'm sorry, heading west and over by where the Pierce Mills site is.

MR. BIZARRO: That would be heading south.

MR. TERRILL: I'm sorry.

MR. BIZARRO: The property is not owned by the city or the state or anybody right now, it's going to private development?

AUDIENCE: Correct.

Comment R-2

MR. BIZARRO: Only because I want to touch on something Mr. Andrade brought about up about the affect it has on the community. As Mr. Bullard is well aware of, those communities were based on jobs. The factories were there, the houses were there to support those jobs. The jobs are gone. The houses are vacant. There's no jobs in the area. As community groups, we go out in the community to fight and to get something going in there. People don't have jobs. So to suggest that somehow a recreational area is going to improve the area, I don't think so. It might make the river look better, but talk about maintenance staff that's been completed, talk about security for the area. We have a park now -- and going back to that, the last meeting at Normandin Junior High School about a year ago, at that time I asked that the soil be re-tested at Riverside Park. I've never heard from anybody one way or another about is it contaminated or not. That hasn't happened again. That's just one small thing.

Comment R-3

But again, the importance of putting a park and the affect that it has on the neighborhoods, if we try to revitalize our communities and neighborhoods, we need jobs, we need moneys, we need economic development. That is the basis by which other things will happen, but until that happens -- you can create something, but now it falls on the city to maintain it, the police department to patrol it, and all these things will still be there. So I hope that somewhere along the line -- and I'm sure you have considered the affect it has on the surrounding community outside that area which will be developed. We have a lot of empty houses, we have a lot of fires in vacant houses, drugs, crime, all that exists. And that will not change until we provide jobs, until we get the water and sewage rates down. This is industrial land now and maybe a mixture of both recreational and industrial to bring the sewer rates down, to do all these things that will bring our communities and neighborhood back.

As Mr. Andrade pointed out, this is the basis that we think really has to be approached. How do we get people jobs? How do we get people to come back to those neighborhoods to live in there, to have access to jobs? Originally they came there to work because they could walk to work. The jobs aren't there. But it's just, we need something to grab onto. People are desperate. I can tell you they're desperate. We've had vigils and walked through the neighborhoods, and people tell us there's nothing for the kids, there's no jobs, there's no opportunities. So if you can somehow, in all this money -- it's a lot of money. I can't imagine what a million dollars is, but $23 million is a lot of money. If a small portion of that can be for economic development and maybe plant some seeds for growth, then maybe the neighborhoods will have a chance. Maybe we'll have housing markets where somebody might want to own a house in that area. Right now they're all for sale just about. Anybody that wants a house, they're all for sale cheap. But build on the economic advantages of the area and all the other good things that come along with it. But I just want to support that that's very, very important. And again, I still want to see Riverside Park tested for contamination.

MR. TERRILL: That's part of the proposal.

MR. BIZARRO: Okay. Thank you.

MR. TERRILL: I apologize for getting your name wrong.

MR. BIZARRO: That's okay.

MR. TERRILL: Steve Sloane.

Comment N-8

MR. SLOANE: Hello, my name is Steve Sloane, the executive director for the Dartmouth Natural Resources Trust. It's just been a little while since, I guess, we talked about this, so I wanted to reiterate how we strongly feel, with the Fishing Commission and the Town of Dartmouth, that both the salt marsh restoration projects and the Padanaram Salt Marsh as well as the Nonquitt Salt Marsh will have a very significant effect to the fisheries in the area and the natural resources in the area. And so I think those natural ecosystems being restored is something which we can all see the benefits of, and additionally, recreational aspects which would be improved on our Smith Farm reserve which we own. I think we'd also offer some recreational assets to the greater community, which is well worth supporting. I was a little concerned however, just as an aside, that the funding was described as dubious. I think I'd like to thank our senators, representatives, and all the others.

MR. TERRILL: Thank you, Steve. Molly.

MS. FONTAINE: My name is Molly Fontaine. I'm the environmental planner for the City of New Bedford. I'm also a member of CRAB. I'm also a member of the City of New Bedford. I'm here in my capacity both as a member of CRAB and as the environmental planner. The city will be submitting formal comment in writing to the Trustee Council before June 2nd. I do not have it with me tonight.

But I want to clear up an issue that possibly might be an issue to the Trustee Council after reading the local newspaper over the past couple weeks. There was an article in the Standard Times that indicated that there were residents in the South End of New Bedford who don't want Fort Taber Park to go forward and they want the funding to be spent elsewhere. We were able to meet with the councillor who had met with those residents, and unfortunately, the way the article was written did not clearly indicate what they had presented. What they were wondering was if we have several grants that are going to be going towards the implementation of Fort Taber Park, and what they were wondering is if we end up with more grant money than we need to complete the park and the park plan, could we possibly spread some of that money around other areas of the South End.

So I just want to let the Trustee Council know that we are still going full steam ahead with the plans for Fort Taber Park. We do still need funding, and at the time, we are not getting more than we need. So I just wanted to make that clear for you tonight. And I'd also just like to do a quick little support for the shellfish work for New Bedford, Dartmouth, Fairhaven, and Acushnet. We do feel very strongly about that. We have some areas that are newly open and they're doing very well. And we'd really like to see that work go forward soon. And it's very important to us, as is the development of the Harbor Master Plan, which did finally go out to public bid. So, you know, I just wanted to -- we will formally state these for you, but just briefly.

MS. BRADY: I have a question. Do you think that the residents that were opposed, or perceived that they opposed the Fort Taber project, do you think that they will be submitting any comments?

MS. FONTAINE: I can mention it to them that, you know, when the deadline is. I know some of them. Actually, I'm working with them on another project right now. So I can ask. But if they do have a formal comment, they can submit it. But I guess it's more important that, you know, it was clearly not stated that way in the paper and there has been -- you know, we've gotten a lot of calls about it, why you're not going to go ahead with the park. But we are, and they're not in opposition to the park. They just want to make sure that other areas of the South End. And one thing that we did mention to them was that in the next round of funding, there are other beaches in the South End that they'd like to see approved, and I thought that we could maybe come in when the next round of funding is available.

MS. BRADY: I just think it would help clarify if they were on record clarifying.

MS. FONTAINE: If they want to, I'll ask them, and I'll tell them how to go about doing that.

MR. TERRILL: That's the last of the people who have signed up. You have a question? Why don't you come up. And then, John, we'll get you.

MR. ROCHA: Bob Rocha, CRAB member, also the Coalition for Buzzards Bay. Most of my comments have been in writing before, and Jack has already received those. But I want to make a remark to a couple people that talked earlier. They were a little off the subject of this meeting, but I'll try to bring it back. Your concerns about economic development and all those

things, they can't speak to those issues if project ideas for those kind of things are not mailed in. They only respond to project ideas that they receive. I have written -- back in the days when we were all being the punching bag, as Chris had mentioned, I put a letter in the paper, and one of my comments in there was, if you've got concerns that you don't think they're taking care of, when there's round two, put in a project idea, and that idea becomes a proposal. They can't respond to it if they don't see it in writing. So if that's a concern, John and Carl, get this stuff in writing next time it comes in.

AUDIENCE: Mr. Rocha, the aquarium is economic development, so there is some plans --

MR. ROCHA: Right. I'm just saying, you know, you both addressed other issues. I'm just saying when it's time for those things. It's just a reminder to people that they can't respond to things that they don't see. That's all. But I know you said there was some in for the next time.

MR. TERRILL: Thank you, Bob. John.

MR. ANDRADE: I didn't come to respond to him, but I got a response to you too, sir. First of all, I been living in New Bedford all my life, and CRAB, I don't know when and how you was organized or formed, and I don't know anything about any of your meetings. And I don't know anybody from my community that sits on your committee or your board or anybody that looks like me that sits on your committee or your board. So when you talk about issues that concern my community or my board, I would like to be part of it to give you my input. But when you have your meetings and when you do your advertisement or whatever, it's never circulated to my neighborhood. So for me to give these folks input in writing or otherwise, we need to be part of the process. I think that's what we're talking about. We're not part of the process. And that's why -- I don't know who you're alluding to, but to mention me in your alludness, I just take exception to what you're talking about.

I just basically want to comment to Molly, and only because she brought it up, in regards to the South End and the $8 million that's been set aside, from what I understand, for the sewage treatment plant for the South End revitalization for Taber Park. I'm sure it's a fantastic idea. For me, it's not a priority. For the people in the South End, I'm sure it is. The area that I'm concerned with is that the South Central neighborhood, which was allocated $440,000 back in 1995, has now been told by the City of New Bedford that we have to share that $440,000 with the Ward Five area around Brigham Street and Goulart Square and Ashley Park further down the South End area and South First Street. We have taken $440,000 from one neighborhood and now try to spread it throughout the whole geographical area, which is ludicrous in regards to economic revitalization or impact on $440,000. I can see more of an impact of $440,000 in an area versus a whole section of the city of New Bedford, and particularly when that money was earmarked for an area that was very highly depressed and in much more need of that money, particularly when you look at -- you got something having $8 million. Are you going to spend $8 million for Taber Park? Is that what's happening? And you still want more money from these folks. I'm not saying that's what you're saying, Molly, but this is what I'm hearing coming from other people in the city.

What we are saying is that you're going to have $8 million down the South End. Bring it down to South Central, bring it downtown. We want some of that money as well as some of this money, some of the money from CDBG. Everybody else is getting all the money. We want some of it too, to revitalize our neighborhood. And let me tell you something, sir, about economic development. The aquarium project is very important to South Central. It's very important to downtown. We have the highest unemployment rate in the entire city of New Bedford of 26 percent. The city, no matter what anybody says, we have 26 percent. Economic development is very, very important for everybody sitting in this room. No matter what neighborhood you come from, what ethnic background you are, it's very important for everyone.

And I'm for birds and flowers. And my background, I grew up, you know, working and farming all my life. Cranberries, I picked cranberries, planted cranberries, you name it. I know about farming. I'm an environmentally aware individual. But economic development is very important if we're going to change New Bedford around, if we're going to change the south coast around. We've got to bring more dollars for economic development.

And I ask you not to criticize what I say or what I have said or misunderstand me. If you want to know more what I'm talking about, invite me to your meetings. We have our meetings. They're open to the public. They're advertised all the time. And if you don't know, I'll give it to you if you come to our next meeting. Because the key thing here, ladies and gentlemen, this our city, our town. And we must work together to the make the things happen. And if it's $23 million or $8 million or $440,000, I don't think one group or one committee has a right to say what it should get or what it should not get.

MR. TERRILL: Any other comments to the Trustee Council on the DraftRestoration Plan Environmental Impact Statement? Seeing none, I close the comment session. Go ahead, John.

MR. BULLARD: I appreciate the time that you all have taken to come out here and give us your comments. As I said before, we will consider them seriously. $23 million is an awful lot of money to spend in the greater New Bedford area. It doesn't happen all the time. It is something, when that opportunity comes, to see 30 people show up to offer suggestions on how to do that. And it says something not all together encouraging. There are rules that Jack took a very quick amount of time to go over about the requirements of this money that come out of the court case and the responsibility that we have as trustees in deciding what to do with it. It's not free money. It doesn't go to whatever need is greatest. It has very specific purpose. And we take our jobs seriously about that.

And I hope that people who want to affect these decisions take their jobs seriously too, you know. The rules, we have to pay attention to. We're going to make recommendation next month on what should be in the final plan for this first round of early action projects. And then we're going to work as hard as we can on seeing that these projects get into implementation so we can see results of these investments. So that all the people can see results of these investments. And I think it won't be too much later than that that we will start to think about, should there be a second round of early action projects, as a number of you have

suggested.You know, the normal way of doing this is to wait until a cleanup is finished and then you do the restoration work afterwards. So we're all kind of departing from the normal procedure in undertaking some restoration work before the removal of PCBs take place because we sense the urgency that many of you have expressed. And we all continue to feel that. So I think that we'll try and make the best decisions we can. We appreciate the comments you've given to help us with that, and we'll try and get these underway soon. And then we'll look and see if it's appropriate to undertake another round of early action. And that's certainly not something that's out of the realm of possibility.

MR. TERRILL: Thank you, John. Next meeting of the Trustee Council is going to be June 18. It's going to start at one o'clock p.m. It will be at the Seaport Inn, Fairhaven. Trustees will be reviewing all the public comment received, both written an oral. There will be a transcript from this hearing presented to the trustees, so they'll have it. And as far as the environmental impact process, we will be preparing a final Environmental Impact Statement with the final alternatives in there. And what will happen also is all the comments received will be responded to in that Environmental Impact Statement. Remember, you have until June 2nd to submit written comments if there's anything additional you want to provide. Thank you very much for coming out.

(The meeting was concluded at 7:38)

10.2. Response to Comments

10.2.1 General/Technical Comments

Comment G-1: Several commenters stated that projects outside the area of the greatest contamination should not be approved.

Response: The release of a hazardous substance (PCBs) into the New Bedford Harbor Environment occurred at two primary locations: 1) the Inner Harbor north of Route 195; and 2) the Outer Harbor south of the hurricane barrier. Over time, the PCBs spread beyond the Harbor and out into Buzzards Bay by the action of the tides, the flow of the river, and by transport through the municipal wastewater system. Natural resources throughout lower Buzzards Bay were consequently exposed to PCBs. In addition fish and wildlife feeding on contaminated material or organisms or passing through the Harbor Environment received doses of contamination and suffer its effects. Accordingly, in order to restore the natural resources injured by the contamination of the harbor, it is necessary and appropriate to look beyond the areas of greatest contamination.

In order for the Trustee Council to begin restoration in the near-term, pre-cleanup projects must avoid areas which are likely to be subject to cleanup activities. By funding projects outside the immediate area now, the Trustee Council can begin the restoration process immediately.

Comment G-2: Two commenters objected to Trustee Council support for projects that the Citizens Restoration Advisory Board (CRAB) does not support.

Response: The Trustee Council sought advice on restoration projects from members of the community, local officials, technical experts, legal advisors and the general public. The Trustees reviewed and seriously considered all the advice and comments that they received. This input is reflected in the Trustees' decisions. The ultimate responsibility for judging how to best accomplish restoration of the injured resources rests with the Trustees.

Comment G-3: Several commenters suggested that restoration settlement funds should be used in the near-term rather than waiting for the cleanup to be completed.

Response: The Trustee Council agrees that benefits to natural resources and the public can be achieved through the early initiation of restoration activities.

However, since significant restoration activities must occur after the cleanup, the Trustee Council is required to reserve a large portion of the funds for future expenditures. The Trustee Council will strive to balance near-term needs with future needs so that natural resource restoration goals can be achieved.

Comment G-4: One commenter noted that RP/EIS Section 3.5 includes very little information about the distribution of contaminants in the biota. A paper by Nisbet and Reynolds (1984. Marine Environmental Research 8:33-66) is relevant.

Response: The Trustee Council appreciates notice of this research paper. The Council reviewed the paper and the information in Section 3.5 and provided more specific information regarding contaminants in the Final RP/EIS.

Comment G-5: Two commenters stated that restoration settlement money should be used to provide economic relief within the affected community.

Response: The United States and the Commonwealth of Massachusetts filed complaints in federal district court alleging injury to natural resources from the release of contaminants into the New Bedford Harbor Environment. The claims were eventually settled and funds provided for restoration of the injured natural resources. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) requires that money received from such a settlement be used only to "restore, replace, or acquire the equivalent of such natural resources." (CERCLA Section 107(f)(1)). CERCLA also clearly defines "natural resources": land, fish, wildlife, biota, air, water, ground water, drinking water supplies and other such resources (CERCLA Section 101(16)).

Natural resource injury settlement funds must be linked to the natural resource injuries that occurred and cannot be used for economic development or relief. The Trustee Council believes that successful restoration of natural resources will yield significant economic benefits through increased and improved opportunities for a wide range of uses of the Harbor Environment, including tourism and recreational opportunities.

Comment G-6: One commenter stated that the restoration activities, as outlined in the Draft Restoration Plan/Environmental Impact Statement, lack monitoring necessary for management of remediation and recovery.

Response: The Trustees agree that monitoring is a critical component of successful site remediation and natural resource restoration. Further discussions by the agencies involved (EPA, ACOE, MDEP) in the cleanup and restoration of New Bedford Harbor will determine the extent of ongoing monitoring activities and the need for new monitoring initiatives. The Trustee Council is committed to appropriate monitoring of any projects it implements or funds. At this stage of planning, we cannot be more specific but will ensure this is an important component of project by project approvals.

Comment G-7: One commenter stated that it is inappropriate for the Trustees to grant money to fund projects conducted by their own agencies.

Response: The Trustees' primary concern in allocating restoration funds is the restoration of injured resources. The Trustees should consider proposals for resource restoration submitted by their own agencies along with all other proposals. In some circumstances, the staff of the Trustee agency is best qualified to perform or oversee restoration work, particularly, for

example, where the agency has strong expertise or statutory authority in management of particular species.

Comment G-8: One commenter asked who the technical reviewers of each proposal were, their positions, affiliations and the recorded votes?

Response: The names of technical reviewers were provided to the public at a November 14, 1995 Trustee Council meeting. They are repeated here:

Name	Position	Agency
Ivo Almeida	Outreach Coordinator	MA Coastal Zone Management
Michael Amaral	Endangered Species Coord.	US Fish and Wildlife Service
Tom Ardito	Program Analyst	National Marine Fisheries Service
John Boreman	Director	UMass/NOAA CMER Program
Philips Brady	Aquatic Biologist III	MA Division of Marine Fisheries
Leigh Bridges	Assistant Director	MA Division of Marine Fisheries
Kenneth Carr	Environmental Contaminats Supervisor	US Fish and Wildlife Service
John Catena	Fishery Biologist	National Marine Fisheries Service
Paul Craffey	Section Chief, Bureau of Waste Site Cleanup	MA Department of Environmental Protection
Carolyn Currin	Microbiologist	National Marine Fisheries Service
David Engel	Leader, Chemical and Physical Processes Team	National Marine Fisheries Service
Bruce Estrella	Aquatic Biologist III	MA Division of Marine Fisheries
Gary Gonyea	Environmental Analyst/	MA Department of Environmental
Technical Support	Protection	
Thomas Minello, Ph.D.	Division Chief, Fishery Ecology	National Marine Fisheries Service
Judy Pederson	Manager, Coastal Resources	Massachusetts Institute of Technology Sea Grant
Catherine Pedevellano	Ecologist	US Fish and Wildlife Service
Laurel Rafferty	Harbor Planning Coordinator	MA Coastal Zone Management
Ed Reiner	Wetland Protection Program Coordinator	Environmental Protection Agency
Charles Roman, Ph.D.	Unit Director	National Biological Service
Jan Smith	Coastal Non-point Source	MA Coastal Zone Management Coordinator
Jack Terrill	Fishery Administrator	National Marine Fisheries Service
Jim Thomas	Senior Scientist,	National Marine Fisheries Service NOAA Restoration Center
Ralph Tiner	National Wetland Inventory Coordinator	US Fish and Wildlife Service

No votes were taken on individual alternatives. The technical reviewers followed standard federal technical evaluation procedures by using score sheets and assigning scores based on how well the project met the stated restoration criteria. The scores were tallied and averaged to determine a ranking. The highest ranking projects for each restoration priority were then considered further and the recommendations made by consensus. These recommendations were shared and discussed with the Community Restoration Advisory Board before presentation to the Trustee Council at the public meeting on April 9, 1996.

Comments G-9 and G-10: One commenter asked for further information (1) describing the decision-making process the Trustees used to reach consensus on selecting the preferred alternatives from the proposals submitted, and (2) how the agencies obtained advice on projects for which they had no expertise.

Response: Prior to reaching decisions on the alternatives, the Trustees considered advice from CRAB and the TAC, reviewed public comments, and consulted with staff, legal advisors, and project proponents. The Trustee Council also sought advice from various experts as the Trustees deemed appropriate. Decisions on the preferred alternatives were then made at public meetings of the Trustee Council .

Comment G-11: One commenter asked why some projects approved by CRAB were rejected by the Trustee Council without providing an explanation of the technical or financial basis for the rejection.

Response: The Trustee Council adopted eight of the ten CRAB-recommended projects for consideration as preferred alternatives. The Aquarium/Oceanarium Feasibility Study was not legally acceptable. A description of the remaining project, installation of a bubble curtain just inside the hurricane barrier, was forwarded to the U.S. Army Corps of Engineers (ACOE) along with the Trustees' request for ACOE consideration of installation of an additional box culvert within the hurricane barrier. Either the ACOE or the Trustee Council may consider future implementation of the project pending a determination by the ACOE of its effectiveness for New Bedford Harbor. This issue is also discussed in the response to Comment G-2.

Comment G-12: One commenter stated that the RP/EIS fails to describe how PCBs have caused injury to the ecosystem of New Bedford Harbor, and that it is impossible to select appropriate restoration options without such a description. The commenter further cites the lack of a natural resource damage assessment which would typically address the natural resource injury.

Response: During the litigation of this case, the Trustees relied upon studies and expert testimony to demonstrate a clear link between PCB contamination and widespread injury to natural resources or the services provided by those resources. On that basis the Trustees recovered $20.2 million for natural resource restoration. Settlement of the Trustees' claims occurred before a natural resource damage assessment was completed. Once settlement had occurred, the Trustees determined that it was most appropriate to expend recovered funds on restoration of natural resources, rather than on completion of a lengthy and expensive damage assessment. By addressing a new phase in activities related to New Bedford Harbor, that is, planning for the expenditure of the damages recovered by the Trustees to restore injured resources, the Restoration Plan allows restoration of natural resources to begin.

Comment G-13: One commenter stated that all proposals should be held up to the light of day.

Response: The Trustee Council believes that all proposal ideas have been fully and fairly evaluated in a public forum. As described above, the evaluation process has included

community, technical and legal review of the projects. Multiple opportunities have been provided for public comment, both written and oral. The project implementation process will also provide public opportunities for project review, including objectives, design, personnel and budget.

Comment G-14: The EPA requested that the FEIS reflect that areas with high concentrations of heavy metals will also be removed through the remedial dredging.

Response: Section 1.2.2 of the FEIS has been modified to reflect this concern.

Comment G-15: The EPA notes that besides PCB and heavy metal contamination, there are other sources of contamination that contribute to natural resource damages. The EPA believes that it is inaccurate to imply in Section 1.2.4 that the PCB and heavy metal problems are the only ones in harbor.

Response: The focus of the Trustee Council's restoration efforts is limited to the natural resource injury caused by the PCB contamination. The damage assessment conducted, and the resulting funds received through settlement of the complaints, specifically address the PCB contamination injury. While the Trustee Council recognizes the influence of these other sources of contaminants in contributing to a degraded Harbor Environment, the Council's restoration actions will not, nor can not, directly address these problems. FEIS Section 1.2.4 now clarifies that there are other sources of contaminants.

Comment G-16: The EPA requested that Section 2.1.1 be modified to clarify the roles of EPA and the Trustee Council.

Response: FEIS Section 2.1.1 has been modified.

Comment G-17: The EPA requested clarification of the definitions for "injury" and "site" with respect to oil and EPA's authorities under CERCLA for oil.

Response: The definitions used are from the National Contingency Plan and apply to both CERCLA and the Oil Pollution Act. The Trustee Council has modified the definition to include a clarification on EPA's role under CERCLA for oil.

Comment G-18: The EPA noted that DEIS Section 2.1.1.2.1 indicates CERCLA requires EPA to work with the U.S. Coast Guard to respond to and clean up all hazardous releases. EPA requested that this be clarified to reflect this delegation is for marine areas only.

Response: FEIS Section 2.1.1.2.1 has been modified to clarify this role.

Comment G-19: The EPA requested clarification on the January and May 1992 Proposed Plan and Addendum. EPA notes that there was one proposal rather than two separate phases of

the cleanup. EPA also provided clarification for their activities in 1995 and 1996 and requested that the FEIS reflect this.

Response: The requested modifications have been made the FEIS Section 2.1.3.2.

Comment G-20: The EPA commented that in Section 2.2.2 development options are not limited by disposal of contaminated material but that the use of confined disposal facilities allow the development of such things such as marine facilities, parks, and recreational use.

Response: It is a matter of degree. While the suggested reuses of confined disposal facilities will allow for some limited development, they will not support the full range of uses typically found in an urban harbor setting. Once capped, the underlying contaminated sediments should not be disturbed such as would occur with the installation of underground utilities. Building construction is limited by the weight carrying capacity of the confined disposal facility. The timing of development is another issue. Several years will have to pass before the confined sediments settle enough to support reuse. The Trustee Council acknowledges and encourages the EPA to continue its efforts to work with the local communities to develop options for the beneficial reuse of the confined disposal facilities.

Comment G-21: The EPA clarified that preliminary sampling of Acushnet River north of Wood Street indicates that some areas are contaminated with PCBs above 10 ppm and will be included in EPA's remedial program. EPA also provided information on various decision documents planned for the cleanup activities.
Response: The Trustee Council appreciates receiving this updated information which has been incorporated into FEIS Sections 2.2.7.4 and 4.2.1, and will consult with the EPA on restoration activities north of Wood Street to insure that there is no interference or risk of contamination.

Comment G-22: The EPA suggested modifications in Section 3.2.1.2 to contradictory sentences.

Response: The Trustee Council has corrected the contradiction in FEIS Section 3.2.1.2.

Comment G-23: The EPA expressed concern, and believes it is inaccurate to say in Section 3.5.1.2 that significant concentrations will remain in the harbor after the remedial dredging. The agency notes that remaining areas will contain sediments in the 1-10 ppm range or less than 1 ppm, and that navigational dredging will also remove additional sediments.

Response: While there will be an overall reduction in PCB contamination in the harbor, the Trustee Council believes EPA's own record indicates that significant concentrations of PCBs will remain after the cleanup has been completed. The EPA's ecological risk assessment concluded that a target cleanup level (TCL) of between 0.1 and 1.0 ppm PCBs would protect the marine ecosystem. By the EPA's own estimation, approximately 1.65 million cubic yards of contaminated sediment would remain by choosing EPA's preferred option over a TCL of 1

ppm. The Trustee Council acknowledges that this is not a viable alternative because of the high cost and potential implementation difficulties.

Comment G-24: The EPA requested changes to DEIS Section 4.3.1.1 to note that in addition to EPA's proposal to remove portions of the marsh which exceed 50 ppm TCL, EPA also proposes to reestablish saltmarsh in areas destroyed by remedial dredging.

Response: FEIS Section 4.3.1.1 has been modified to reflect this information.

Comment G-25: The EPA noted that DEIS Section 5.1 incorrectly states that "some of the CDF capacity will be reserved for sediments from navigation dredging projects." Rather, capacity is reserved for an interim cap to cover the contaminated sediments. The EPA also clarified that CDFs have a variety of reuse options including natural resource enhancements.

Response: FEIS Section 5.1 will be corrected and modified to include this information.

10.2.2. PREFERRED ALTERNATIVES

10.2.2.1. PADANARAM SALT MARSH RESTORATION

Comment P-1: Two commenters expressed support for the Padanaram salt marsh restoration project.

Response: The Trustee Council notes the support and for the reasons specified in the EIS has decided to implement this project.

Comment P-2: Several commenters expressed opposition to the Padanaram salt marsh restoration project.

Response: The Trustee Council believes that the Padanaram salt marsh restoration offers an excellent opportunity, at low cost, to restore degraded salt marsh habitat. When adequate tidal flow is restored, the Padanaram marsh will have salinity levels which again support salt marsh vegetation and the associated fish and wildlife resources. Restoration of salt marsh habitat for marine resources will clearly replace a portion of the habitat injured or lost due to PCB contamination of the harbor. This salt marsh will be used by resident species as well as by marine and avian species that are known to frequent other areas of the Harbor Environment.

10.2.2.2. NONQUITT SALT MARSH RESTORATION

Note: The Trustee Council has decided to postpone a decision on the proposed Nonquitt Salt Marsh restoration until more definitive answers to the questions posed by the Trustees can be provided by the project's proponents.

Comment N-1: Several commenters believed that the Nonquitt Marsh restoration project should not be aproved because pollution from unimproved septic systems continues to contaminate the marsh and may harm fish and shellfish.

Response: The presence of low levels of pollution from residential septic systems in areas adjacent to Nonquitt Marsh is not likely to have an adverse affect on the proposed restoration project. Restoration of Nonquitt Marsh was proposed because natural, historic marsh vegetation has died back across much of the marsh, reducing the biological value of the marsh to the New Bedford Harbor ecosystem. The die-back was caused primarily by a lack of tidal flushing of the marsh, resulting from the installation of an inadequately-sized culvert beneath Mattarest Lane

Studies (Metcalf and Eddy, 1983; and Lloyd Center for Environmental Studies, 1989) have found that the replacement of the culvert with one of adequate size should lead to revegetation of the marsh, increased habitat value, restoration of biological communities, and the enhancement of other ecological functions normally provided by healthy salt marshes. These changes will benefit the fish, shellfish and wildlife of the entire New Bedford Harbor Environment. Many New England saltmarshes are subject to minor inputs of sewage from nearby residential areas, but nevertheless support diverse, abundant communities of fish and wildlife. In fact, healthy wetlands tend to filter pollutants, and may in some cases serve as a buffer to help keep land-based pollutants from contaminating natural resources such as quahog beds further offshore.

Massachusetts' Title 5 program requires that residential septic systems meet specific standards. The Trustee Council supports improved compliance with existing environmental requirements, and believes that upgrading of residential septic systems can benefit natural resources in New Bedford Harbor.

Comment N-2: Two commenters stated that the Nonquitt Marsh project should not be approved for early funding because it is outside the Acushnet River area or outside of the City of New Bedford.

Response: As discussed in the response to Comment G-1, the extent of the Trustees' natural resource damages claim was based on evidence that the natural resources of New Bedford Harbor Environment -- fish and birds in particular--move freely in and out of wetlands and waters throughout the Inner and Outer Harbor, Buzzards Bay and beyond, and consequently were exposed to harbor PCB contamination. The enhancement of salt marsh habitat on Outer New Bedford Harbor would benefit fish and birds and other natural resources throughout the Harbor Environment as well as provide benefits to people who use such resources, whether through consumptive uses like fishing, or passive uses like birdwatching. Further, Nonquitt Marsh is adjacent to Outer New Bedford Harbor and the Area III fishing closure, and is, therefore, within the affected environment as defined by the New Bedford Harbor Trustee Council. (See Federal Register 60 FR 52167)

Comment N-3: One commenter stated that the Nonquitt Marsh project should not be approved because public access to the marsh and beach is limited.

Response: The primary purpose of the Nonquitt Marsh restoration project is to restore natural resources--specifically, to improve habitat for fish and wildlife injured by PCB releases to New Bedford Harbor. The Nonquitt Marsh project would benefit publicly-owned natural resources throughout the Harbor Environment by increasing physical and biological exchange between the waters of the Harbor and the marsh.

Overland public access to areas adjacent to Nonquitt marsh would be provided as a part of this project through the construction or extension of public trail.

Comment N-4: Three commenters suggested that scarce restoration funds should be spent in New Bedford, which was the primary source of contamination, where the pollution damage was done and which has limited financial resources, and not in Nonquitt which is a private, wealthy community.

Response: See response to Comment N-2, above. Implementation of the Nonquitt Marsh restoration project would provide benefits to the natural resources of the entire New Bedford Harbor Environment and to all those who enjoy and/or rely upon these resources. Money is being retained for future projects focusing on the Inner New Bedford Harbor.

Comment N-5: Two commenters stated that the proposed 10-year monitoring plan and its proposed costs for the Nonquitt Marsh project has not been adequately reviewed.

Response: A 10-year monitoring plan for the Nonquitt Marsh restoration was included in the original project idea submission, but was not evaluated in the New Bedford Harbor Draft Restoration Plan and Environmental Impact Statement because the Trustees have not yet determined the appropriate time period for recovery monitoring, nor have they yet determined who will plan and implement the monitoring. Cost will certainly be a consideration in determining the appropriate level and type of monitoring for all implemented projects.

Comment N-6: One commenter stated that the Nonquitt Marsh project should include regrading/planting to ensure success.

Response: Recolonization of the marsh surface by *Spartina* spp. and other marsh vegetation would be expected to occur over a period of years following hydrologic restoration of the marsh. Replanting and regrading of the marsh surface would certainly accelerate the process of recovery, but would increase the cost of the project as well.

Comment N-7: Several commenters expressed opposition to this project for unspecified reasons.

Response: The Trustee Council notes the opposition to this alternative.

Comment N-8: Several commenters expressed support for the Nonquitt salt marsh restoration project.

Response: The Trustee Council notes the support for this alternative.

Comment N-9: One commenter suggested that the Trustees need to examine the assertion that it would be "impossible" to restore drainage to the original natural channel at Barekneed Creek, which the commenter regards as unproven.

Response: The project's proponents have been asked to consider this suggestion and to report back to the Trustee Council.

10.2.2.3 TABER PARK

Comment F-1: Several commenters expressed support for Taber Park.

Response: The Trustee Council notes the support for this alternative.

Comment F-2: Three commenters stated that restoration funds should not be used for Taber Park or should be used there in a more limited fashion. One of the commenters suggested that the Trustee Council limit its support to aspects of the park clearly related to injured resources.

Response: The public lost multiple recreational uses of the Harbor due to PCB contamination of the harbor. Recreational losses were included in the Trustees' calculation of damages in the suit brought against harbor polluters. The Trustee Council agrees with the comment that restoration funds should be spent only on those aspects of the park which will provide the equivalent of such lost recreational uses to the public. The Trustees believe that assisting in the construction of limited aspects of Taber Park is a way to provide the public with the equivalent of some of the lost recreational uses of the harbor. Given the many uses and demand for available shoreline along the harbor, there are limited opportunities within the harbor environment to create recreational/open space. The Trustee Council will restrict its participation at the park to those areas and facilities which the city has not previously committed to provide, and which are related to the natural resource injury.

10.2.2.4. RIVERSIDE PARK BELLEVILLE AVENUE RECREATIONAL MARINE PARK

Comment R-1: Several commenters indicated support for development of Riverside Park.

Response: The Trustee Council notes the support for this alternative. The Council has approved funding for a site contaminant study to begin once three conditions have been met by the City of New Bedford: a) the City must obtain title to the property; b) the City must dedicate the area for the park, and c) agree to provide continuing support for park maintenance.

Comment R-2: One commenter suggested that the soil in the area proposed for the park should be tested for contamination before proceeding.

Response: The Trustee Council agrees with this comment and has authorized funding for a contaminants study. See the response to Comment R-1.

Comment R-3: One commenter suggested that the Trustees should consider a mixed-use development of the site and that the Site will have to be maintained.

Response: The City of New Bedford must determine the best use or mix of uses for this parcel of land. It may be possible to combine residential, commercial and recreational/passive uses of the parcel. The Trustee Council has stated its desire to consider construction of a park at this location once further information is available on the site's contaminant load.

Comment R-4: The EPA asks the Trustee Council to consider the value of this area for salt marsh and mudflat restoration and is concerned that a boat ramp or pier may conflict with habitat restoration objectives.

Response: The Trustee Council recognizes the potential of this area for restoration of salt marsh and shoreline habitat and will consider these actions as the project progresses. The Trustee Council believes that this project can provide a variety of benefits both to injured natural resources and the public. At this early stage, specific plans are unclear and the Council's commitment is only for the contaminant study. If the study results are favorable and there is a commitment by the City of New Bedford to proceed, the Trustee Council will work with the project's proponents to develop a project that incorporates the greatest benefits to the injured natural resources and the public. Any structures erected on the site will be subject to permit review to evaluate potential impacts to the environment before construction commences.

Comment R-5: The EPA supports the concept of a marine related park and the Trustee Council's intention to wait until the upper harbor dredging is completed before beginning construction. The EPA suggests that if this is not possible, to restrict access to the shore until dredging is complete.

Response: The Trustee Council will work in close coordination with the EPA on any actions it intends to take in this area.

10.2.2.5. HURRICANE BARRIER BOX CULVERT

Comment B-1: Several commenters expressed support for construction of an additional box culvert in the hurricane barrier to increase tidal flow within the harbor.
Response: The Trustee Council notes the support and has decided to ask the ACOE examine the appropriateness and feasibility of this project. The Trustee Council believes that it is

important to increase tidal flow within the harbor. Since the ACOE manages the hurricane dike at the mouth of the harbor, any changes made to the barrier have to be approved by the ACOE. The Trustee Council is willing to consider for cost sharing with the ACOE should the ACOE determine that this project is appropriate and feasible.

Comment B-2: The EPA commented that the PCB flux rate (0.5 pounds/day) used in the rationale for this alternative is incorrect. EPA states that this is the rate of PCB transfer from the upper to lower Harbor as measured at Coggeshall Street in 1994 and 1995 rather than the transfer rate through the hurricane barrier. The actual rate is believed to be less. The EPA further suggests that water quality impacts be determined before any new culverts are installed.

Response: The Trustee Council used information from the EPA's Draft Final Feasibility Study of Remedial Alternatives for the Estuary and Lower Harbor/Bay which modeled transport processes. The results from the TEMPEST/FLESCOT Model indicated a transport rate of 105 kg/yr which is equivalent to approximately 0.6 pounds/day. The Trustee Council will cite this source in the FEIS.

Regardless of the figure used, the Trustee Council believes that the Hurricane Barrier has had an impact on water quality in the harbor by sequestering the various contaminants present there, while at the same time benefitting the Buzzards Bay ecosystem. Several actions will improve water quality in the harbor. The new wastewater treatment plant at Fort Rodman will help reduce sewage and organic contaminants in the harbor. EPA's cleanup efforts will reduce PCB and heavy metal contaminants. The Trustee Council believes that increasing tidal flow will assist the achievement of better water quality.

EPA's call for a the potential impacts to water quality is valid and the Trustee Council will ask the ACOE to include this as part of its feasibility study.

10.2.2.6. EELGRASS HABITAT RESTORATION

Comment E-1: One commenter expressed support for restoring eelgrass within appropriate areas of the New Bedford Harbor Environment.

Response: The Trustee Council notes the support and has decided to implement this project.

Comment E-2: One commenter expressed opposition to restoring eelgrass within the New Bedford Harbor Environment because the commenter believes that eelgrass is not needed in this type of harbor.

Response: Eelgrass provides valuable habitat for estuarine fish and wildlife, notably flounder, tautog, scallops, and quahogs. Therefore, the Trustee Council believes that eelgrass restoration in the New Bedford Harbor Environment can contribute significantly toward restoring natural resources injured by PCB releases to the Harbor.

Eelgrass was once widespread in the New Bedford Harbor Environment. Significant eelgrass beds remain in areas of the Outer Harbor, particularly off Sconticut Neck and in the Fort Rodman area. During the 1930s, eelgrass declined in Buzzards Bay and elsewhere due to the "wasting disease," caused by a protozoan. More than 50 years later, eelgrass beds have not fully recovered in many New England waters.

Before any eelgrass restoration is undertaken in the New Bedford Harbor Environment, the Trustees will conduct an assessment to ensure that attempts to restore eelgrass are restricted to areas of the Harbor Environment where water quality, water clarity, substrate characteristics, and other factors are suitable for the growth of eelgrass. In all likelihood, this will limit the project to the Outer Harbor and Clarks Cove.

The commenter is correct in suggesting that eelgrass restoration is not appropriate for the more industrial, commercial, or polluted areas of the Harbor Environment. By focusing on less contaminated areas of the Harbor Environment, there is a high probability that eelgrass restoration efforts will be successful and that they will, therefore, provide significant benefits for natural resources injured by PCB releases.

10.2.2.7. LAND CONSERVATION - SCONTICUT NECK MARSHES AND COASTLINE

Comment L-1: Several commenters expressed support for acquiring land on Sconticut Neck to preserve it as conservation land.

Response: The Trustee Council notes the support and has decided to implement this project.

Comment L-2: One commenter expressed opposition to acquiring land on Sconticut Neck for the purpose of preserving it for conservation land.

Response: The Trustee Council has reviewed habitat value information for the Sconticut Neck land available through the Massachusetts Natural Heritage and Endangered Species Program. Based upon that review, the Trustee Council has determined that this acquisition offers great benefits to natural resources because of the habitat types found on the property and the species it supports and believe that it is appropriate to preserve the habitat value of this parcel of land for conservation purposes.

Natural resources, including land, are subject to high levels of contamination within the Harbor Environment. By preserving this productive and uncontaminated parcel, the Trustee Council will insure that further stresses from human use will not be applied to the natural system at this particular site. There will also be public benefits from limited public access to the site allowing for greater public appreciation and use of the natural resources present and the services they provide.

When contaminated areas within the harbor environment are eventually cleaned up, they will no longer pose an ecological hazard to natural resources. Much of the surrounding topography will be changed by the construction of containment areas. It is likely that some of these areas will not provide habitat value equal to what it has replaced, or what was found

before the contamination. As a result, it will be important to maintain the Sconticut Neck property as conservation land after the cleanup is completed.

10.2.2.8 RESTORATION AND MANAGEMENT OF NEW BEDFORD AREA SHELLFISHERY

Comment SH-1: Several commenters expressed support for restoring shellfish resources within the New Bedford Harbor Environment.

Response: The Trustee Council notes this support and has decided to implement this project initially for two years.

Comment SH-2: Opposition to restoring shellfish resources within the New Bedford Harbor Environment until more is known why the harbor is so oily.

Response: The Trustee Council recognizes that developing a fishery in a contaminated environment may not be appropriate. The goal of this project is to develop a sustainable fishery by transplanting shellfish from Inner New Bedford Harbor waters to cleaner areas in the Outer Harbor, followed by comprehensive management of the fishery. Once in cleaner waters, the shellfish would eventually rid themselves of contaminants through their natural siphoning action, over a period of time. Shellfish must be tested and must meet FDA tolerance levels for contaminants in order to be approved for harvest.

The oily sheen on the harbor may come from a variety of sources including (a) polychlorinated biphenyls (PCBs) and other oils being released from the sediment, (b) discharges from ships and/or shore runoff. The contaminant levels in the shellfish will be determined before any shellfish are moved, and only those with acceptably low levels of PCBs and/or metals will be transplanted out of the Inner Harbor.

Comment SH-3: One commenter stated that native quahogs should be utilized as seed donors and that seed from the notata, genetically distinct, subspecies of *Mercenaria mercenaria* should be prohibited because it reduces biodiversity.

Response: The Trustee Council notes this comment and will make this recommendation to the project applicants for incorporation into project design.

Comment SH-4: The EPA expressed concern about conducting shellfish surveys or transplants in areas with high PCB contamination. The EPA asked that the Trustee Council coordinate its shellfish activities with the EPA.

Response: The Trustee Council acknowledges the need for close coordination and will consult with the EPA on Harbor related activities, particularly those activities that may resuspend or spread PCB contaminants.

10.2.2.9. HERRING RUN RESTORATION

Comment HE-1: Several commenters expressed support for restoring the Acushnet River herring run.

Response: The Trustee Council notes the support and has decided to implement this project.

Comment HE-2: The EPA expressed support for the herring run restoration but noted concerns that river herring may accumulate PCB's while traveling through the harbor and asked that the FEIS explain how the project will be implemented to eliminate this concern.

Response: River herring sampled from the Harbor have shown PCB contamination and this is a valid concern. River herring are primarily used for bait and serve as forage for other species. To reduce the possibility of river herring being a source of PCB contamination to other species project implementation may be done in stages to address this concern. The first stage will be design, followed by contracting, then actual construction. This process may take several years. The schedule for construction of the three fishways may be modified so as to delay the opening of the run until such time as PCB levels in the Harbor have been reduced. During this time, stocking of the reservoir may be accomplished. Stocked fish will return to the area four or more years after stocking. This may allow sufficient time for a substantial portion of the cleanup to be completed.

10.2.2.10. RESTORATION & MANAGEMENT OF TERN POPULATIONS

Comment T-1: Several commenters stated that gulls and other predators should not be killed as part of the restoration project.
Response: The Trustee Council would like to accomplish the tern restoration without killing gulls or other predators, if possible. In fact, the Trustee Council instructed the applicant to use non-lethal means of controlling gulls and other predators. This may include human presence in the gull nesting areas, noisemakers, or use of dogs.If this effort is not successful, the applicant is to return to the Trustee Council and seek permission before proceeding with lethal means.

Comment T-2: Several commenters expressed opposition to the tern restoration project because the projects are located outside New Bedford Harbor.

Response: As discussed above, the comment relating to funding of projects outside the immediate New Bedford Harbor area was considered by the Council. (See Comment G-1.) Although the primary focus of most restoration activities will be within or in close proximity to the areas of direct impact, the Trustee Council must also consider the impact of the contaminant release on the entire affected ecosystem.

The roseate tern (a federally and state listed endangered species) and the common tern are known to have been contaminated and adversely affected by the ingestion of contaminants biomagnified through the food chain. This injury was one of the bases of the complaint filed against the defendants in the AVX case. The proposed projects present an important opportunity to restore the tern population which was injured by contaminant releases from the

Site. In order to address the injuries which the species incurred at the Site, it is necessary to focus restoration efforts at their nesting colonies.

Comment T-3: One commenter stated that the Trustee Council should not use funds to rebuild the shoreline along Bird and Ram Islands since wave action will cause erosion and destroy the project; and further, the project is not consistent with past federal policies.

Response: Bird Island, Ram Island and Great Gull Island in New York are the primary nesting locations on the eastern coast of the U.S. for endangered roseate terns. The loss of any one of these locations could create a threat to the continued existence of the species. As storm waves breach the island and travel inland, tidal pools which either inundate or eliminate nesting locations are formed. Rebuilding the shoreline will protect the islands' resources from further injury. The tern restoration plan has identified these critical areas and proposes to take immediate action to secure and strengthen shorelines to prevent such tidal damage and erosion.

Before this project may be implemented, the project's applicants will be required to apply for necessary federal and state permits assuring compliance with all applicable federal and state laws or regulations.

Comment T-4: Several commenters stated their support for the roseate and common tern restoration project.

Response: The Trustee Council notes the support and has decided to implement this project for two years, with restrictions on lethal control of predators.

Comment T-5: One commenter noted that roseate terns are listed in EIS Table 3.8 as being commonly observed while several species of gulls are rarely seen.

Response: The source of the information was the National Audubon Society Christmas Count Data. It provides a good snapshot in time for a particular location but as expressed in Table 3.8, cannot be used to judge the overall health or abundance of the species. Roseate terns declined to levels leading to a designation of endangered under the Endangered Species Act. Such a designation considers abundance throughout the range of the species. The Massachusetts population of Roseate terns declined from 5000 pairs in the 1940's to 1721 pairs in 1996. Similarly, common terns declined from 40,000 pairs to 11,221 pairs.

Comment T-6: One commenter stated that the study component of the project, which would require destroying eggs and chicks, is inconsistent with the goal of preserving and restoring the tern population.

Response: Sampling of eggs and chicks will utilize only inviable/dead specimens.

Comment T-7: One commenter stated that the rationale that the project would support ecotourism is misleading since none of the areas are frequented by tourists. The islands in question do not attract tourists because of limited access or use.

Response: The reference to ecotourism refers to the assumption that an increased avian population will provide greater opportunities for birdwatching and other nonconsumptive uses of natural resources throughout the New Bedford Harbor Environment and Buzzards Bay environments. In making this assumption, the Trustee Council was not indicating an expectation that the nesting locations themselves would be tourist attractions. The success of the restoration would in fact be significantly impaired if the nesting locations were exposed to substantial pedestrian traffic. However, it is expected that the terns would be observed and appreciated when they are in habitats outside their nesting areas, such as the feeding habitat within the New Bedford Harbor area.

Comment T-8: One commenter stated that funds should be spent on cleanup and protection.

Response: CERCLA clearly limits the use of funds obtained as a result of settlements and judgments brought against Responsible Parties. Sections 104 and 106 of CERCLA authorize EPA to conduct clean-up ("remediation"), and protection ("abatement actions") at Superfund sites. By comparison, Sections 107(f) and 111(I) authorize the natural resource trustees to restore natural resources injured and/or destroyed by releases of hazardous substances from the site.

The Consent Decrees, pursuant to which the litigation in this matter was concluded, provided for the payment of separate funds for EPA's remediation activities at the Site, and the Trustees' natural resource damage restoration activities. EPA received the majority of the settlement funds ($69.7 million) as compensation for its past and future expenditures for remediation work at the Site. The natural resource trustees received approximately $20.2 million for restoration work related to injuries in the New Bedford Harbor Environment. Pursuant to the Consent Decree with Federal Pacific Electric Company (FPE) and Cornell Dubilier Electronics, Inc. (CDE), an additional $10 million was set aside in a Court Registry account for natural resource damages and/or response costs relating to the Bay portion of the Site. Allocation of the $10 million in the Court Registry account to the Trustees and/or EPA will be determined after EPA selects a remedial action for the Estuary/Lower Harbor/Bay portion of the Site, and in accordance with the terms of a Memorandum of Agreement concerning natural resource damages and/or response costs in the matter of U.S. v. AVX between the United States (EPA and NOAA) and the Commonwealth of Massachusetts dated September 3, 1992.

It is the responsibility of EPA to clean up the Site so that it does not pose a risk to human health or the environment. When EPA has completed its task, the Trustees will be able to conduct additional restoration activities without fear that past contamination will undermine or reverse their efforts. In exceptional circumstances, if the Trustees believe that the EPA cleanup was not sufficient to protect trust natural resources, the Trustees may conduct further remediation activities. The expenditure of natural resource damages settlement funds for site remediation would limit the availabilty of funds for restoration when the cleanup was completed. Clearly, Congress acknowledged the importance of each of the vital but distinct functions of remediation and restoration and intended that the Trustees use their portion of the settlement funds for restoration of injured and/or destroyed natural resources.

Comment T-9: One commenter stated that the tern restoration project should not be funded until the harbor has been cleaned up in order to avoid exposing more terns to contaminated food supplies.

Response: The initial dredging of the "Hot Spot" has reduced the total contaminant load in the Harbor Environment. Still more needs to be done to reduce the impacts to the natural resources. However, not all of the terns to be produced by the tern restoration project would be subject to harmfull PCB concentrations because not all of the terns would feed on the most highly contaminated portions of the food chain. The expanded numbers of terns resulting from this project will provide a more secure reservoir of birds to replace any birds that may be continued to be injured until PCB concentrations gradually decrease in the food chain as a result of sediment remediation.

Comment T-10: One commenter objected to lethal control of gulls since they play an important role within the ecosystem by cleaning the ocean of various natural by-products.

Response: The Trustee Council recognizes the importance of gulls in the Buzzards Bay ecosystem. However, there is an imbalance in gull populations due to human actions (such as creating open dumps and landfills). As a result of increased population, gulls are dominating areas previously occupied by common and roseate terns, thereby preventing nesting by these species Therefore, the Trustee Council has concluded that it is desirable to support the roseate terns by securing suitable nesting habitat.

Comment T-11: One commenter suggested that the Trustee Council should not approve the purchase of a 17-foot boat for this project, because the boat is exorbitantly priced and totally inappropriate.

Response: Specific project design and an associated budget will be negotiated before implementation of this project. The Trustee Council will require the applicant to reduce costs where possible, and justify the entire budget.

The Trustee Council recognizes that in order to have safe access to the islands where restoration will be performed, use of a boat is essential. However, alternatives to purchase of a boat, such as leasing, will be pursued. If it is necessary to purchase a boat, the applicant will be required to a) justify the boat selected; b) justify the price to be paid; c) sell the boat post-project and return the funds to the trust fund; and, d) return the equipment to the Trustee Council for use on other projects associated with natural resource restoration for the Superfund Site.

Comment T-12: One commenter stated that It is an unproven assumption that the decline of tern population is due in part to the effects of PCBs on mating behavior.

Response: The Trustee Council disagrees with this comment. Specific studies have been published and included in the Court Record. Common tern eggs that were sampled in 1972

and 1973 from Ram and Bird Islands had PCB concentrations averaging 29.4 mg/kg wet weight and 12.8 mg/kg, respectively (Nisbet and Reynolds, 1984). Dead or dying common terns, with no obvious injuries, were collected from Bird Island in 1990. Liver samples taken from these birds (all eventually succumbed) yielded PCB concentrations between 3.9 and 840 mg/kg (Aquatec, 1990). Samples of Atlantic silversides (a prey species of the common tern) taken from New Bedford Harbor had PCB concentrations ranging from 3.7 to 75 mg/kg (Aquatec, 1990). It was concluded that PCB contamination led to the mortality. Roseate tern samples showed lower PCB concentration levels largely due to lower PCB levels in the prey of roseate terns (striped anchovies).

Additional studies have occurred in the Great Lakes on Foster's terns (NWF, 1997). When PCB concentration levels in the tern chicks dropped, mortality dropped as well and compared with a colony at a unpolluted site located nearby. This did not indicate lowers levels in the environment though. It was determined that the amount of rainfall determined the amount of contamination received. More rainfall brought greater stirring of the sediment.

Another effect found was that the reduced levels allowed chicks to hatch and survive for several weeks, only to die after one month. It is believed that the levels were not sufficient to kill the embryo in the shell, but would affect the chicks later. This effect has also been found in other species around the Great Lakes/St. Lawrence region.

10.2.3 OTHER ALTERNATIVES

10.2.3.1. NEW BEDFORD AQUARIUM/OCEANARIUM

Comment AQ-1: Several commenters expressed support for funding for the proposed Aquarium/Oceanarium.

Response: The Trustee Council notes that a great deal of public support has been expressed for the construction of an aquarium/oceanarium in New Bedford. The Council has carefully reviewed the proposal and has concluded that it does not meet the criteria established by law and in the consent decrees for restoring, replacing, or acquiring the equivalent of the natural resources injured or destroyed at the Site. The Trustees see no linkage between the aquarium/oceanarium and the restoration of injured resources at the Site. It is possible that some aspects of the aquarium complex, as it is ultimately developed, which may be eligible and appropriate for restoration funding. The applicant is invited to submit such ideas for review by the Trustee Council when it makes future funding decisions.

One commenter stated that there is precedent for the use of natural resource damage funds for the construction of an aquarium, and in support cites what he characterizes as a decision by the Exxon Valdez Oil Spill Trustee Council (EVOSTC) to use natural resource damage monies for the construction of an aquarium in Seward, Alaska. The New Bedford Harbor Trustee Council has learned that the EVOSTC did provide funding "to support development of the research components of the Alaska Sea Life Center" (Eric Myers, Director of Operations, EVOSTC, emphasis added). The EVOSTC required such a facility to provide research on the long-term impacts of the oil spill on the injured natural resources and there were no existing

facilities in Alaska which had such research capabilities. The EVOSTC did not provide funding for the construction of the aquarium located adjacent to the research facility.

Proponents of the Trustee Council's funding of the aquarium emphasize their expectation that such a facility will promote the development and growth of the New Bedford economy. The Trustee Council acknowledges this legitimate community concern; however, CERCLA requires that settlement funds be used for the purpose of restoring, replacing, or acquiring the equivalent of the natural resources which were injured or destroyed by the release of the contaminants at the Site. The Trustee Council is not authorized to fund programs which solely promote economic recovery.

Comment AQ-2: One commenter stated that the aquarium proposal should be rejected because: 1) several have gone bankrupt, 2) one in Camden, NJ did not meet goal of revitalizing the area; and 3) Camden aquarium is a financial drain on community.

Response: As discussed in the response to Comment AQ-1, the Trustee Council rejects the alternative as proposed because it does not meet the legal requirements as a project which would restore, replace or acquire the equivalent of the natural resources injured as a result of PCB releases from the Site. However, the Council has not assessed the likelihood of the project's success.

10.2.4 PREFERRED STUDIES, PLANS, EDUCATIONAL ACTIVITIES

10.2.4.1 NEW BEDFORD/FAIRHAVEN HARBOR MASTER PLAN

Comment H-1: Several commenters expressed support for funding of the Harbor Master Plan.

Response: The Trustee Council notes the support and for the reasons specified in the Draft RP/EIS has decided to implement this study.

10.2.4.2. WETLANDS RESTORATION PLANNING: NEW BEDFORD HARBOR ENVIRONMENT

Comment W-1: Three commenters expressed support for conducting a wetlands inventory within the New Bedford Harbor Environment.

Response: The Trustee Council notes the support and for the reasons specified in the Draft RP/EIS has decided to implement this study.

10.2.5. NEW ALTERNATIVES

Comment NA-1: Two commenters suggested that the Trustees should plant trees up to 1/4 mile from the Acushnet River.

Response: The Trustee Council cannot consider a new suggestion for this round of funding since the time for public review has passed. The Trustee Council entered into a formal process to request restoration ideas from the public, state and federal agencies, local citizens and governments. The alternatives considered in the Draft RP/EIS were those ideas received and reviewed under this process. The Trustee Council expects that later rounds of restoration project selection will occur as progress is made towards the cleanup. The authors are encouraged to submit this and other ideas at those times.

Comment NA-2: One commenter proposed an additional site for land acquisition on Sconticut Neck as an opportunity for preservation of a salt marsh.

Response: The Trustee Council agrees that salt marsh restoration is an important component of restoration activities. Further, land acquisition to preserve and protect functioning salt marsh or other important habitats is a preferred strategy. The author is encouraged to submit this idea for the next round of restoration project selection.

Comment NA-3: One commenter stated that the Trustee Council should combine efforts with the Environmental Protection Agency (EPA) to build a coffer dam at the foot of Sawyer Street, 30 feet from shore and approximately 200 feet long by 100 foot wide, where sludge would be deposited. It would be covered with cement providing a location for a park with a whaling ship.

Response: Responsibility for remediation lies with the EPA, which makes determinations on cleanup methods and disposal means and locations. EPA has held a public comment period on the locations where contaminated material from the harbor will be stored will be stored. The commenter is urged to contact EPA directly.

Comment NA-4: One commenter submitted a new proposal to fund a striped bass aquaculture project under emergency restoration provisions.

Response: The Trustee Council has not authorized emergency funding for any restoration project thus far, and would do so only under exceptional circumstances, because it is essential that restoration ideas be given full and fair scrutiny by the public and the Council before any decision is made. The numbers of striped bass have increased dramatically in Buzzards Bay and elsewhere on the East Coast in recent years, causing the Atlantic States Marine Fisheries Commission to determine that stock has been fully restored. The Trustee Council has determined that there are no indications that this project would be appropriate for funding as an emergency restoration action. The commenter is urged to submit this idea for consideration by the Trustee Council for the next round of restoration project selections.