New Bedford Harbor Trustee Council

DAMAGE ASSESSMENT, REMEDIATION AND RESTORATION PROGRAM

ENVIRONMENTAL ASSESSMENT

ROUND IV

NEW BEDFORD HARBOR RESTORATION GRANT APPLICATIONS

Commonwealth of Massachusetts

U.S. Department of Commerce

U.S. Department of the Interior

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FINAL _____

NEW BEDFORD HARBOR TRUSTEE COUNCIL
ENVIRONMENTAL ASSESSMENT

ROUND IV- RESTORATION GRANT APPLICATIONS

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Acronyms and Abbreviations Used

ACOE	U.S. Army Corps of Engineers
AWQC	Ambient Water Quality Criteria
BBP	Buzzards Bay Project
BMP	Best Management Practices
CCC	Cape Cod Commission
CDF	Confined Disposal Facility
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CMR	Code of Massachusetts Regulations
CWA	Clean Water Act
cy	cubic yard
CZMA	Coastal Zone Management Act
DOC	U.S. Department of Commerce
DOI	U.S. Department of the Interior
DOJ	U.S. Department of Justice
EA	Environmental Assessment
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
EOEEA	Executive Office of Energy and Environmental Affairs
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
FDA	U.S. Food and Drug Administration
FFO	Federal Funding Opportunity
FMP	Federal Management Plan
FONSI	Finding of No Significant Impact
FR	Federal Register
ha	hectare
kg	kilogram
m	meter
MCZM	Massachusetts Office of Coastal Zone Management
MDAR	Massachusetts Department of Agricultural Resources
MDEP	Massachusetts Department of Environmental Protection
MDFW	Massachusetts Department of Fisheries and Wildlife
MDMF	Massachusetts Division of Marine Fisheries
MDPH	Massachusetts Department of Public Health
mg	milligram
MHC	Massachusetts Historic Commission
MNHESP	Massachusetts Natural Heritage and Endangered Species Program
NBHE	New Bedford Harbor Environment
NBHTC	New Bedford Harbor Trustee Council
NEPA	National Environmental Policy Act

NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
PCB	Polychlorinated biphenyl
PNF	Project Notification Form
ppm	parts per million
RC	NOAA Restoration Center
ROD	Record of Decision
RP	Restoration Plan
RP/EIS	Restoration Plan/Environmental Impact Statement
SHPO	Massachusetts State Historic Preservation Office
TSS	Total Suspended Solids
USC	United States Code
WRP	Wetlands Restoration Program

1: INTRODUCTION

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund," 42 U.S.C. §9601 *et seq.*) provides a mechanism for addressing the Nation's hazardous waste sites, allowing states and the federal government to sue polluters to recover the costs of the clean-up and/or restoration of designated sites. CERCLA provides for the designation of federal, state, or tribal authorities as "natural resource trustees" who represent the public interest in natural resources. Natural resource trustees may seek monetary damages (*i.e.*, compensation) from polluters for injury to, destruction of, or loss of natural resources resulting from releases of hazardous substances. These damages, which are distinct from clean-up costs, must be used by the trustees to "restore, replace, or acquire the equivalent of" the natural resources that have been injured. (42 U.S.C. §9607(f)(1)) The trustees must prepare a restoration plan and are required to involve the public in the development of the restoration plan (42 U.S.C. §9607(f)(1) and §9611(i); 40 C.F.R. §300.600; 43 C.F.R. §11.93).

The sediments, water column and biota of New Bedford Harbor, Massachusetts, are highly contaminated with polychlorinated biphenyls (PCBs) as a result of industrial discharges into the Harbor and nearby coastal environments in western Buzzards Bay. As a result, the U.S. Environmental Protection Agency (EPA) designated New Bedford Harbor a Superfund Site under CERCLA in 1983.

In 1991 the New Bedford Harbor Trustee Council (NBHTC or Trustee Council) was created, composed of the Commonwealth of Massachusetts, the U.S. Department of Commerce (DOC), and the U.S. Department of the Interior (DOI). The Commonwealth's designated Trustee is the Secretary of Environmental Affairs of the Executive Office of Energy and Environmental Affairs (EOEEA) with assistance provided by its departments and divisions. DOI is represented by the U.S. Fish and Wildlife Service with assistance provided by the DOI Office of the Solicitor. The National Oceanic and Atmospheric Administration (NOAA) has been designated as the DOC's lead agency responsible for damage assessment and restoration. NOAA's lead office for restoration is the National Marine Fisheries Service (NMFS) assisted by NOAA's Office of General Counsel.

In order to satisfy the requirements of the National Environmental Policy Act (NEPA, 42 U.S.C. §4321 *et seq.*), the Trustee Council combined restoration planning with the development of an Environmental Impact Statement (EIS) and prepared a Restoration Plan and EIS (RP/EIS) for the New Bedford Harbor Environment (NBHTC 1998) under CERCLA, 42 U.S.C. §9601 *et seq.*, and NEPA, 42 U.S.C. §4321 *et seq*. A Record of Decision was issued on September 22, 1998 (NBHTC 1998b).

The Trustee Council has undertaken and is undertaking environmental restoration in New Bedford Harbor and the surrounding environment in order to: (1) restore natural resources injured by PCB releases; (2) restore the habitats of living resources and the ecological services that those resources provide; (3) restore human uses of natural

resources, such as fisheries and public access; and (4) improve aspects of the human environment of New Bedford Harbor that have been degraded by the Harbor contamination (NBHTC, 1993).

The environmental restoration has incorporated public and professional opinion to develop, evaluate, and select specific and general restoration alternatives. The result has been the selection and implementation of the preferred alternatives identified in the RP/EIS. The RP/EIS also identified appropriate times when the Trustee Council could consider selecting additional projects for implementation. As a result, the Trustee Council initiated a second solicitation of restoration ideas (Round II) which were the alternatives included in an Environmental Assessment (EA) approved on January 8, 2001. Round I resulted in 11 restoration ideas and Round II resulted in 17 restoration ideas receiving funding.

NOAA, acting on behalf of the Trustee Council, issued a notice (70 FR 5161) on February 1, 2005 announcing the availability of grant funds for fiscal year 2005. That notice also included an announcement of New Bedford Harbor Restoration Grants (Round III). An EA was prepared which described the process being used by the Trustee Council in making its final recommendations regarding the grant applications for funding of restoration projects to be implemented in Round III. A Finding of No Significant Impact (FONSI) was approved on June 30, 2006 allowing the implementation of Round III. Round III resulted in 6 funded restoration projects.

As occurred with Round III, a Federal Register notice was issued on January 2, 2009 (74 FR 72) announcing the availability of funds for the Trustee Council's Round IV. As a result of that notice, 15 applications were received by the closing date of February 17, 2009. This EA examines the applications received as they apply to the restoration priorities. It incorporates the information presented in the applications and the analysis performed by technical and legal advisors to the Trustee Council resulting in preferred projects for funding. This EA is presented for public review and comment.

2. PURPOSE AND NEED FOR ACTION

2.1 The Final Action: Environmental Restoration of the New Bedford Harbor Environment

The final action presented in this EA is the implementation of six restoration proposals submitted through application to Round IV, a competitive grant funding round. The six proposals and the determined level of funding are:

1. Round Hill Salt Marsh Restoration ($1,300,000)
2. Acushnet Sawmill Ecological Restoration ($1,197,000)
3. LaPalme Riverside Farm Acquisition ($600,000)
4. Restoration and Management of Tern Populations in Buzzards Bay ($485,440)
5. Acushnet River Upland Riparian Restoration ($2,900,000)
6. Palmer's Island Sanctuary ($100,000)

2.2 Need for the Final Action: Injury to Natural Resources

2.2.1 Site History: Contamination of New Bedford Harbor

New Bedford Harbor is an urban tidal estuary on Buzzards Bay, in southeastern Massachusetts**.** From the late 1940s until 1977, when the use of PCBs was banned in the United States, manufacturers of electrical parts in New Bedford discharged PCBs directly and indirectly, via the municipal wastewater treatment system, into the New Bedford Harbor Estuary[1] (Estuary). PCBs are a class of chlorinated organic compounds that are suspected human carcinogens. They have been shown to be harmful to many species, capable of causing reproductive failure, birth defects, and death. PCBs tend to "biomagnify" up the food chain, accumulating in the tissues of top predators such as gamefish, birds, and humans (60 F.R. 10836).

A series of studies conducted from 1974-1982 found high levels of PCBs and toxic metals (particularly cadmium, chromium, copper and lead) to be widespread in the water, sediments, and marine life of New Bedford Harbor. Levels of PCBs in the Harbor biota were found to exceed what was then the U.S. Food and Drug Administration (FDA) guideline of 5 parts per million (ppm) (subsequently lowered to 2 ppm). As a result, in September 1979 the Commonwealth closed the Inner Harbor (the area of the harbor north of the Hurricane Barrier) to all fishing, and the Outer Harbor (the area of the harbor south of the Hurricane Barrier extending out to the southern limits of Closed Area III) to the taking of certain species.

In the late 1980s and early 1990s, studies further demarcated the distribution of PCBs and toxic metals throughout the Estuary and in parts of Buzzards Bay (Pruell et al., 1990). PCB concentrations in marine sediment in the Estuary were found to range from a few parts per million (ppm) to over 200,000 ppm, while concentrations in excess of 50 ppm were found in parts of Outer New Bedford Harbor. PCB concentrations in the water column were found to exceed federal ambient water quality criteria (AWQC) (0.030 ppm, based on chronic impacts to marine organisms) (60 F.R. 10836).

In 1983, New Bedford Harbor was designated as a Superfund Site[2], eligible for Federal clean-up action, or "remediation." In addition, Massachusetts identified New Bedford

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[1] An estuary is defined as that area of interaction between rivers and near-shore ocean waters, where river flow and tidal action mix fresh and salt water. The New Bedford Harbor Estuary is the area between the New Bedford Hurricane Barrier extending north to approximately the Tarklin Hill Road/Main Street Bridge.

[2] "New Bedford Harbor Superfund Site" means New Bedford Harbor, Massachusetts, and the adjacent waters and shore areas containing natural resources which have been or may be injured, destroyed or lost as a result of releases of hazardous substances from the facilities. This includes the New Bedford Harbor Superfund Site, located in portions of New Bedford, Acushnet and Fairhaven, Massachusetts, including New Bedford Harbor, the Acushnet River Estuary extending north to the Wood Street Bridge, and any adjacent marine waters and sediments and shoreline areas which were the subject of the United States Environmental Protection Agency's Remedial Investigation and Feasibility Study, including at least Areas 1, 2 and 3 as defined in 105 CMR 260.005.

Harbor as the Commonwealth's priority Superfund site. As a result of settlements in 1991 and 1992 (U.S., et al., v. AVX Corporation, et al., Civil Action No. 83-3882-Y) with the federal government and the Commonwealth of Massachusetts, the manufacturers responsible for the contamination paid approximately $100 million for remediation and restoration of New Bedford Harbor. Of this amount, approximately $21 million plus accrued interest must be used by the Trustee Council for restoration, replacement or acquisition of natural resources.

2.2.2 Injury to Natural Resources: Overview

Discharges of PCBs to the New Bedford Harbor Environment (NBHE[3]) have caused significant ecological injury. Widespread contamination of the air, water, sediments and biota of the Estuary has resulted in lethal effects for some species as well as widespread sub-lethal effects such as reduced biological diversity, alteration of biotic communities, and reproductive impairment of marine species.

Contamination of New Bedford Harbor natural resources by PCBs has resulted in the closure of fishing grounds, lost use of beaches, and loss of environmental quality.

The ongoing Superfund Site remediation of New Bedford Harbor is expected to remove or cap 85% to 90% of the PCB contamination from New Bedford Harbor. It will not, however, restore the NBHE to its pre-contamination condition. Lower, but still significant, levels of PCBs and metals will remain in the marine sediments of some Harbor areas.

Contamination from other sources such as combined sewage overflows, wastewater treatment plant discharges, industrial wastewater discharges, and boats is also present. The Superfund designation of this site was based primarily on the PCB releases from industrial discharges at two locations and not on these other sources of environmental contamination.

2.3 Purpose of the Final Action: Restore Injured Natural Resources and Lost Services of the Natural Resources

The purpose of the proposed action--natural resource restoration in New Bedford Harbor--is to restore, replace or acquire the equivalent of natural resources injured, lost or destroyed by PCB releases in New Bedford Harbor, as required by CERCLA (42 USC §9607(f)(1)). Restoration actions would accelerate and enhance recovery of the

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[3] The “New Bedford Harbor Environment” (Appendix A) means the area encompassed by the Acushnet River watershed which extends west into Dartmouth, east into Acushnet and Fairhaven, and from the north extending south to include the New Bedford Reservoir and the City of New Bedford into Buzzards Bay extending out to the area designated as Fishing Area III. The watershed is defined as the entire surface drainage area that contributes water to the Acushnet River. (NBHTC 1998)

ecosystem, the ecological services provided by the ecosystem, and associated human uses.

In order to assess the potential environmental impacts of the restoration, the Trustee Council defines the affected environment to include the lands of the Acushnet River watershed, the waters of the Acushnet River and New Bedford Harbor, and parts of Buzzards Bay, as well as uses of this environment -- ecological as well as human -- extending beyond these boundaries. However, since the injury primarily affected marine and coastal resources, the proposed restoration focuses on the natural resources of the Estuary and adjacent coastal areas.

The Trustee Council established the following six restoration priorities upon which to focus its restoration efforts. These priorities were established through a public process of communication among the Trustee Council agencies, other public officials, members of the public, and other stakeholders. (RP/EIS Chapter 2)

1. Marshes and wetlands
2. Recreation areas
3. Water column
4. Habitats
5. Living resources
6. Endangered species

2.4 Coordination of Restoration with Remediation

Restoration of the NBHE has been and will continue to be coordinated with the process of remediation, since the restoration options available at a particular time are largely dependent on the status of the Harbor environment and clean-up. Water and sediment quality, ongoing dredging and construction activities, and the location and extent of confined disposal facilities (CDF) influence the possibilities for restoration.

One issue that has caused, and is still causing, uncertainty is the level of funding available to the EPA for cleanup of the harbor. All settlement funds designated for the cleanup have been expended. Further funding for cleanup is expected to come from the Superfund. However, the authorization for the Superfund tax has not been renewed and cleanup activities are currently being funded out of annual appropriations and the American Recovery and Reinvestment Act of 2009.

It has been estimated that at current funding levels, it could take over 20 years to complete the current phase of cleanup, and longer for additional phases. Despite this uncertainty, the Trustee Council continues to work with the EPA to coordinate their respective activities and to conduct natural resource restoration in those areas where cleanup actions will not disturb the restoration. The Trustee Council will continue to seek EPA's involvement, where appropriate, on those restoration projects that would benefit from earlier cleanup.

2.5 Process for Selecting Restoration Alternatives and Results

Following the process described in RP/EIS Section 2.2.7.5 (submission of restoration ideas; legal, technical and public review; recommendations developed; public hearing/comment), the Trustee Council solicited natural resource restoration ideas from the public for near-term restoration projects.

In October 1995, the Council issued an initial "Request for Restoration Ideas" (60 FR 52164, October 5, 1995)(Round I). Fifty-six ideas were received from the local communities, members of the public, academia and state and federal agencies. The ideas were the basis for the alternatives listed in the Council's RP/EIS that was developed to guide the Council's restoration efforts. A record of decision (ROD) was issued on September 22, 1998 for the RP/EIS. The ROD provided for implementation of 11 preferred restoration projects costing $4.2 million through funding provided by the Trust Account.

A second request for proposed restoration ideas was issued in August 1999 (64 FR 44505, August 16, 1999) (Round II). Thirty-five restoration ideas were submitted to the Council with total requested funding of approximately $35.0 million from the Trust Account. After consideration of public comment, the Council chose to implement 17 restoration ideas costing over $8 million.

The pace of implementation of restoration activities from previous rounds did not match the Trustee's expectations in part because of the large number of projects (Round I resulted in 11 projects, and Round II resulted in 17 projects) and the many steps needed for their implementation. To address this concern, Trustee Council staff explored alternative means to conduct Round III and the decision was made to solicit for restoration projects rather than restoration ideas. By soliciting for projects rather than ideas, applicants would actually be implementing restoration projects with oversight from the Trustee Council staff. A grant application, including a complete project description and budget would be required for consideration of funding. This solicitation method placed a greater burden on the applicant. The applicant needs to have complete information and be able to implement or administer the project. No longer would a suggested idea be taken and implemented by an agency.

For Round III a notice was published in the *Federal Register* on February 1, 2005 announcing the availability of grant funds for New Bedford Harbor Restoration Projects. Fifteen applications were received requesting a total of $11.0 million in Trustee Council funding and addressing several but not all of the Trustee Council's restoration priorities.

These proposals were the subject of legal review and technical review and scoring based on criteria specified in the *Federal Register* and Federal Funding Opportunity. Recommendations were then made to the Trustee Council which met in closed session with its technical and legal advisors to receive and discuss the recommendations and render preliminary decisions.

A draft EA was prepared and released for a 30-day comment period during which time a public hearing was held. The draft EA examined the applications received as alternatives and documented the Trustee Council decision process. The draft EA identified six preferred alternatives and the Council's suggested funding levels but also requested specific comments on options and funding levels for two additional land acquisition projects.

A transcript was prepared to record the results of the public hearing that was held on November 16, 2005 in New Bedford, Massachusetts. At the conclusion of the comment period the Trustee Council examined and considered all comments submitted to the Council. The Trustee Council then reached consensus on the applications for six restoration projects in the amount of $5.7 million for which the Council was going to provide funds.

2.6 Process for Soliciting Round IV Restoration Projects

For Round IV the Trustee Council decided to again use the Round III grant solicitation process. A preliminary meeting was held in November 2008 to notify the public to expect the solicitation and to provide initial guidance on what was being considered for restoration priorities and funding for Round IV. At this meeting, it was announced that the Trustee Council had determined that recreational projects would no longer be funded because recreational projects were no longer a restoration priority. Applicants were urged to focus their attention on the other restoration priorities that would restore injured natural resources rather than the human services lost. The Council believes that sufficient funding has already been provided through previous funding rounds for recreational areas. The Council provided over $4.5 million in funding to assist in the construction of Fort Taber Park and Riverside Park in New Bedford. Further, the “habitat” restoration priority has been used and will continue to be considered for the permanent protection and preservation of open space and to provide passive recreational activities through Council-funded land acquisitions or conservation easements. The Trustee Council also announced that up to $6 million was expected to be available for Round IV funding.

Notice of Round IV was provided through the *Federal Register* on January 2, 2009 (74 FR 72) and GRANTS.GOV, the U.S. government’s method of announcing grant opportunities and receiving applications. Notice was also provided through email notifications and press releases. Accompanying the notice was a Federal Funding Opportunity (FFO) (NOAA 2009) which described the information required for application and the means by which applications would be reviewed and decisions made. The FFO also contained the information that was presented at the November 2008 public meeting. Applicants had 45 days to submit an application to the Trustee Council for consideration. A total of 15 applications were received by the deadline of February 17, 2009.

The following applications were received in response to the Round IV solicitation:

Table 1 Round IV Application Received

Number	Title	Funds Requested	Matching Funds	Total
4-01	Regional Waterways Public Access Project at Clarks Cove in Dartmouth, MA	$1,009,375	$539,850	$1,549,225
4-02	GEC Self-sustaining Comprehensive Ecological Model for Restoring the Acushnet River and Sustaining Restoration Efforts through the Establishment of Recycling Centers	$1,689,750	$1,737,375	$3,427,125
4-03	BioHaven – New Bedford Harbor	$2,000,000	$1,115,000	$3,115,000
4-04	Restoration and Management of Tern Populations in Buzzards Bay	$809,977	$176,254	$986,231
4-05	Round Hill Salt Marsh Restoration Project	$2,949,275	$0	$2,949,275
4-06	LaPalme Riverside Farm Land Acquisition	$1,022,605	$0	$1,022,605
4-07	Acushnet Sawmill Ecological Restoration	$1,644,993	$0	$1,644,993
4-08	Enhancement of Bottom Habitat for Marine Species in Buzzards Bay as Related to the New Bedford Harbor Cleanup	$932,705	$80,055	$1,012,760
4-09	Lobster Stock Replenishment in New Bedford	$613,714	$29,371	$643,085
4-10	Regional Shellfish Restoration Project	$800,000	$0	$800,000
4-11	Water Quality and Habitat Enhancement Northern Fairhaven New Bedford Harbor	$2,420,470	$277,900	$2,698,370
4-12	Low-Impact Wetland Remediation	$1,001,783	$0	$1,001,783
4-13	Restoration of Top Food Chain Species through the Reduction of PCB Availability by a Novel Seaweed Bioremediation System	$438,921	$95,368	$534,289
4-14	Acushnet River Upland Riparian Restoration Project	$6,059,609	$0	$6,059,609
4-15	Palmer's Island Sanctuary and Interpretative Trail	$1,113,619	$0	$1,113,619
TOTAL		**$24,506,796**	**$4,051,173**	**$28,557,969**

The applications underwent a technical and legal review and recommendation were made to the Trustees. A draft EA was prepared and released on November 10, 2010 which evaluated each of the applications and documented the Trustee Council's preliminary decisions and proposed funding levels for each project. The draft EA and preliminary decisions were subject to a public hearing held on November 23, 2010 and a 30-day public comment period which closed on December 10, 2010. The Trustee Council also sought public comment through two legal notices on related issues on April

6, 2011. After consideration of all the public comment received, the Trustee Council determined that the following preferred alternatives would be funded at the funding levels specified.

The final preferred alternatives and final funding levels are:

Marshes or Wetlands

Round Hill Salt Marsh Restoration Project ($1,300,000)

Water Column

No preferred alternatives

Habitats

Acushnet Sawmill Ecological Restoration ($1,197,493)
LaPalme Riverside Farm Land Acquisition ($600,000)
Acushnet River Upland Riparian Restoration ($2,900,000)
Palmers Island Sanctuary ($100,000)

Living Resources

No preferred alternatives

Endangered Species

Restoration and Management of Tern Populations in Buzzards Bay ($485,440)

Studies, Plans or Educational Activities

No preferred alternatives

2.7 Modification of Restoration Plan

In February/March of 1995, while the Restoration Plan was being developed, the Trustee Council held a series of information and scoping meetings with the goal of informing the public on restoration concepts, legal requirements, and the roles of the various groups involved. (RP/EIS Sec. 2.2.7.3.2). At that time, EPA had not yet issued its Record of Decision (ROD) selecting a cleanup plan for the Harbor. One question that resulted from these public information/scoping meetings was whether the Trustee Council could implement short-term restoration projects before final cleanup decisions were made by EPA with respect to the Harbor. To address this question, the Restoration Plan provides that:

1) Projects must be consistent with the restoration plan being developed.
2) Projects must not be undone or negatively impacted by EPA's remediation work, either now or in the future.
3) Sufficient funds must be retained to accomplish meaningful and necessary restoration work after EPA's cleanup is finished. (RP/EIS Sec. 2.2.7.4).

To date, the Trustee Council has followed the Plan by avoiding projects that would be

undone or negatively impacted by EPA's remediation work. The Trustee Council continues to coordinate closely with the EPA regarding all cleanup and natural resource restoration work in the Harbor.

The Trustee Council intends to effectively modify the Restoration Plan through this EA by having Round IV be the last funding round of natural resource restoration projects. The Trustee Council believes it has sufficient information regarding EPA's remedial work in the Harbor – as described in EPA's Record of Decision (ROD) selecting a cleanup or remedial plan for the Harbor – for the Trustee Council to plan the final round of restoration projects. Any benefit of waiting for completion of the Harbor cleanup – which may take many years -- to implement specific restoration projects is outweighed by the benefits to the natural resources of implementing the restoration projects sooner. At the conclusion of the Round IV process, all settlement funds will either be spent or committed for approved natural resource restoration projects. This modification of the Restoration Plan achieves the goal of implementing more restoration projects sooner rather than waiting for completion of all remedial work in the Harbor.

This proposed modification of the Restoration Plan was addressed at the Round IV public information meeting held on November 20, 2008. At this widely advertised meeting, the Trustees provided the context for what was expected to be the final process for Round IV. Issues raised at that meeting included the timing of the solicitation for projects, the method of solicitation (NOAA grants), the restoration priorities to be addressed, and the amount of targeted funding ($6.0 million). Because it was anticipated that this would be the last funding round, project applicants were advised to submit complete budgets. At that meeting, no concerns were expressed that any funds should be reserved for future projects. Instead, the public focused on the amount of funding that was to be made available immediately.

Similarly, the Round IV announcement published in the FR also provided guidance that it was to be the last funding round.

And the Trustee Council also published a legal notice on April 6, 2011 seeking public comment on the question of whether any funds should be retained until completion of EPA's cleanup. No comments were received in response to the notice. The result is that that the Trustee Council will fund the Round IV applications.

3. Affected Environment

Chapter 3 of the RP/EIS (from which this EA results) provides a description of the area of the Affected Environment including a description of the geographic setting (Chapter 3.1), physical environment (Chapter 3.2), the biological environment (Chapter 3.3), the human environment (Chapter 3.4) and the injury to the environment (Chapter 3.5). The overall geographic, physical and biological aspects of the New Bedford Harbor Environment are as described in the RP/EIS Chapter 3. Rather than repeating the

information found in these chapters, this EA will focus on recent activities that affect the environment.

3.1 Current Status of the Harbor Environment

The release of PCBs, heavy metals and other contaminants into the New Bedford Harbor Environment has caused injury to natural resources and lost use of those resources. Sewage, household wastes, and commercial wastes such as debris, oil, metals and organics all contribute to a degraded environment.

Marine sediments, beaches, the water column, and biota are contaminated with PCBs, and this has in turn affected the area's natural resources and ecosystems. PCBs have been shown to harm reproduction and can cause cancers in marine species.

The impacts from PCB contamination are not limited to natural resources alone. The services provided by the natural resources in the affected area have been impacted as well. The contamination resulted in the prohibition of fishing in large portions of the Harbor Environment. Other services provided by the natural resources became unfeasible or undesirable. The Massachusetts Department of Public Health (MDPH) posted warning signs along the Harbor prohibiting swimming, fishing, shellfishing and lobstering.

It has been estimated that a total of 880,000 cubic yards (cy) (672,808 cubic meters (m^3)) or more of PCB-contaminated sediment will need to be removed and disposed of to complete an initial phase of the cleanup. EPA has put the infrastructure in place (dewatering facility, desanding facility, pumping and pipeline) to allow additional contaminated sediment removal to proceed.

Initial cleanup actions removed 14,000 cy (10704 m^3) of contaminated sediment with PCB levels exceeding 4,000 ppm. This activity occurred in the Upper Estuary portion of the Harbor between April 1994 and September 1995. The dredging was focused in a five-acre area designated as the "Hot Spot Area" so named because it contained the highest concentration of PCB-contaminated sediments. Additional cleanup occurred in an Upper Estuary area north of Wood Street where 12,000 cy (9175 m^3) of PCB-contaminated sediment was removed between November 2002 and March 2003. This cleanup was necessary because of the high concentrations of PCBs and the proximity of this area to the residences and parks located along the shoreline nearby. At the conclusion of the sediment removal, the area was replanted with native trees and wetland grasses and shrubs.

In 2004, the EPA began full-scale dredging using the annual appropriations. Typically this would provide approximately 40 days of dredging each year. Dredging has occurred every year since 2004 and approximately 190,000 cy (145,265 m^3) have been removed. In April 2009, the EPA received $30 million in American Recovery and

Reinvestment Act of 2009 (ARRA) funding which enabled the EPA to conduct dredging operations for six months with approximately 70,000 cy (53,519 m^3) expected to be removed.

3.2 Potential Future Actions in the Harbor Environment

The *New Bedford/Fairhaven Municipal Harbor Plan Renewal and Designated Port Area Master Plan* was recently approved by EOEEA (June 14, 2010). The original plan was approved in 2002 (the Trustee Council contributed funds to its development) and this new plan lays out future activities in the harbor in three key areas:

1. Maintenance dredging;
2. Bulkhead reconstruction; and
3. Potential new shoreline confined disposal facilities.

The plan addresses community goals to:

1. Support traditional harbor industries;
2. Rebuild and add to the harbor infrastructure;
3. Capture new opportunities; and
4. Enhance the harbor environment.

The plan also seeks to coordinate the harbor planning process with the ongoing Superfund cleanup.

Two types of dredging exist within the Harbor. Dredging to remove hazardous materials being conducted for the Superfund remedy is ongoing and will continue into the future. Harbor dredging for navigational purposes is a growing need that is addressed by the plan. The plan also addressed dredging conducted under the State Enhanced Remedy. This would allow requests for dredging of areas with low levels of contamination (below action levels for cleanup) to be included in the Superfund remedy.

The plan initiates rehabilitation of existing bulkheads and construction of new bulkheads. This would be focused on deepwater access locations and the rehabilitation is proposed for the New Bedford State Pier and Fairhaven's Union Wharf. New bulkhead construction is proposed for an extension of the South Terminal Bulkhead, and extension of the North Terminal Bulkhead and a new Popes Island Bulkhead.

A third plan initiative is to continue support of commercial fishing interests within the port. The infrastructure highlighted includes increased berthing space for fishing boats to be achieved through expansion of existing piers, commercial moorings, dredging in the vicinity of piers, and more efficient management.

One future goal that the plan addresses is to provide a location for short sea shipping operations. This and expansion of existing freight handling facilities would provide an improvement to freight operation in the harbor.

4. Alternatives and Their Impacts

This section analyzes environmental impacts of the proposed action: environmental restoration of the New Bedford Harbor Environment. This section identifies restoration alternatives under consideration and evaluates their environmental consequences. Restoration priorities were established through a public process of communication among the Trustee Council agencies, other public officials, members of the public, and other stakeholders. (RP/EIS Chapter 2) The alternatives that follow were derived from a public, formal solicitation of grant applications for New Bedford Harbor restoration projects (74 FR 72) as described in Section 2.5 above.

4.1 No-Action Alternative: No Environmental Restoration

No-action/natural recovery (with monitoring) must always be considered in environmental analysis, and should be chosen when it provides greater environmental benefits than other alternatives.

For purposes of this analysis, the no-action alternative assumes that the Harbor cleanup described in Chapters 2 and 3 of the RP/EIS will be completed in approximately twenty years (i.e., through 2030); that it will reduce the level of contaminants in the Harbor Environment; that previous Trustee Council funded projects will be implemented and that EPA-initiated natural resource mitigation activities resulting from cleanup activities will be undertaken during or after cleanup.

4.1.2 Predicted Scenario under Natural Recovery Only

Natural recovery for New Bedford Harbor is likely to be slow and may not restore resources, habitats, or associated services to baseline conditions. PCBs were designed to remain stable in industrial applications. This means that they are chemically stable (will not easily degrade into other compounds), are able to withstand high temperatures, have low solubility in water, and are non-flammable. These characteristics also mean that they will remain in the environment for a long time and will bioaccumulate in the tissues of living resources (Weaver, 1982). Other contaminant sources such as heavy metals and sewage may also adversely affect recovery times within the Harbor Environment.

The damage assessment conducted on the New Bedford Harbor Environment assumed a natural recovery period of 100 years without remediation. This is a likely scenario given the stability of PCBs and environmental processes taking place. As described in RP/EIS Section 3.5.1.2, EPA has informally estimated that once the cleanup is completed, water quality target levels for PCBs may take another ten years to achieve (Dickerson, PC, 1996). The Harbor cleanup will reduce the concentration and volume of PCBs, but residual PCBs will remain and affect natural resources for an additional 16-100 years.

The no-action alternative is rejected. The no-action alternative will not provide greater environmental benefits than the other alternatives. The no-action alternative delays environmental benefits. By choosing this alterative opportunities may be lost, such as the opportunity to protect habitat from future development. The Trustee Council is responsible for restoring, replacing or acquiring the equivalent of the natural resources that were injured, destroyed or lost by the release of contaminants. Relying on natural recovery alone will delay the necessary recovery of the injured natural resources. By taking restoration actions now, environmental benefits can be realized sooner.

4.2 The Preferred Alternative: Natural Resource Restoration

Funds to restore injured natural resources are available from settlements with the parties responsible for releasing contaminants into the New Bedford Harbor Environment. The Trustee Council is required to use these funds to restore, replace or acquire the equivalent of the natural resources that were injured, destroyed or lost.

Natural resource restoration will accelerate the natural recovery process and, in turn, should lead to additional benefits through increased use and greater confidence in the health of the Harbor. The sooner injuries can be corrected through cleanup efforts and natural resource restoration, the sooner natural resources can thrive in a healthy environment. Such an environment will support larger populations of marine organisms, healthier individuals and a greater diversity of species. This will also lead to an increase in the services provided by the natural resources including fishing, shoreline use and boating.

Due to time constraints and settlement of the litigation described in Section 1.2.1, the damage assessment performed for New Bedford Harbor was incomplete and provided only a generalized approach for determining the impacts of the contamination on natural resources. It remains for the Trustee Council to determine the best approach for restoration. Other environmental impacts are present in the area that may mask or increase the impacts of PCB contamination. Historical information alone does not describe the quality to which resources should be restored (i.e., the condition that would have existed had the contamination not occurred). Accordingly, the preferred approach is to take a holistic view and address natural resource restoration opportunities throughout the affected environment. This will provide ecological benefits throughout the watershed while having additional positive effects on the human environment.

Projects are selected to address the restoration priorities (RP/EIS Section 2.2.6) by applying the selection criteria (RP/EIS Section 2.2.5). The selection criteria were further refined through the FFO used to announce the grant availability for Round IV. The FFO provided clarification regarding the first criterion and read:

> "The potential of the project to restore, protect, conserve, enhance, replace or acquire the equivalent of natural resources that were injured as a result of the release of hazardous substances, including PCBs, in the New Bedford Harbor

Environment. This is a required provision for project acceptance. Only if a project satisfies this provision will the project be evaluated for the following factors..."

Unlike previous funding rounds, "recreation areas" was no longer considered to be a Council restoration priority. Applicants were urged to focus their attention on the other restoration priorities that would restore injured natural resources rather than the human services lost. The Council believes that sufficient funding has already been provided through previous funding rounds for recreational areas. The Council provided over $4.5 million in funding to assist in the construction of Fort Taber Park and Riverside Park in New Bedford. Further, the "habitat" restoration priority has been used and will continue to be considered for the permanent protection and preservation of open space and to provide passive recreational activities through Council-funded land acquisitions or conservation easements.

4.3 Specific Proposals/Alternatives

This section identifies and evaluates the 15 Round IV restoration project grant applications received and the final alternatives resulting from the Council's review process, organized by restoration priority set forth in the RP/EIS (Section 2.2.6).

4.3.1 Marshes or Wetlands

Marshes and wetlands provide important habitat for many of the injured fish and wildlife resources within the Harbor Environment. Besides having habitat value, marshes and wetlands provide important functions that protect or enhance the Harbor Environment. Wetlands also cleanse polluted waters, protect shorelines, and recharge groundwater aquifers (Mitsch and Gosselink, 1993). During flood conditions, wetlands provide protection by holding excess water that would otherwise flood surrounding areas.

Tidal marshes, which provide some of the functions listed above as well as habitat essential to fish and shellfish affected by PCB contamination, are found within the Harbor Environment. Finally, marshes provide nesting habitat for many avian species.

4.3.1.1 No-action Alternative: No Marsh or Wetland Restoration or Creation

The no-action alternative would be to leave existing marshes or wetlands in their present state and not restore or create any new marshes and wetlands beyond those actions already implemented under Rounds I, II, and III. The New Bedford Harbor Environment contains several marshes or wetlands, some of which function properly. Others are contaminated or are otherwise less than fully functional.

Marshes on the eastern side of the Harbor north of Coggeshall Street have high levels of PCB contamination. Species are exposed to PCBs each time they use the marsh, resulting in detrimental health effects. Allowing these marshes to continue in this condition will allow future generations of the natural resources to be exposed and suffer chronic PCB effects. EPA's Record of Decision for the Upper and Lower Operable Unit

(EPA ROD) (EPA 1998) specifies that sediments with PCB contamination levels above 50 ppm in salt marshes will be removed. Portions of the marsh will still contain PCB levels that are higher than levels that would be protective of natural resources. The 50 ppm level was chosen to spare large portions of the marsh from being removed or destroyed. After removal for the cleanup, EPA will recreate the affected marsh areas as has occurred along the shoreline north of Wood Street.

Other marshes within the area have undergone transition (unrelated to PCB contamination) due to inadequate tidal exchange. In some cases this has allowed non-native invasive salt tolerant plants such as the common reed (*Phragmites australis)* to take over portions of the marsh. When established, this plant provides only limited habitat value to wildlife. In other cases, inadequate tidal flow has led to hypersaline conditions resulting in native vegetation die-off. Such conditions will no longer support many of the species commonly found in salt marshes. Finally, some historic salt marshes have been filled to further development of those locations.

Marshes and wetlands are critically important within the Harbor Environment to provide alternative habitat locations or to increase productivity to compensate for losses in areas remaining contaminated. Since certain marshes within the Harbor will still have PCB contamination even after cleanup, it is important to restore or enhance other marshes within the Harbor Environment. Failure to restore these resources will result in the continued deterioration of the habitat value of the Harbor Environment. For these reasons, the no action alternative is rejected.

4.3.1.2 Preferred Alternative

The preferred alternative is active restoration of the marshes and wetlands within the Harbor Environment.

4.3.1.2.1 Round Hill Salt Marsh Restoration Project

Project Description

Proposed Action: The proposed project will restore the Round Hill marsh by removing up to 75,000 cy (57,351 m^3) of fill that had been placed on the marsh in the early 1900s, plant the restored marsh surface with appropriate salt marsh plant species, and replace a culvert beneath Ray Peck Drive with a properly sized culvert that will reconnect the restored marsh to tidal exchange from Buzzards Bay. Building on the results of the Round 3-funded feasibility study, the proposal would design, permit, construct and monitor this salt marsh restoration project on land owned by the Town of Dartmouth. The applicant proposed both a Minimum Build project, which would restore approximately 6.9 acres (2.79 hectares (ha) of salt marsh, or that amount that was determined to be the minimum size necessary to achieve stability of the Meadow Shore marsh tidal inlet, or the Full Build project, which would restore up to 11.6 acres (4.69 ha). A decision on the scale of the project will be based on the amount of funding made available.

Location: The proposal site is located directly north of the Town-owned beach at Round Hill Point and to the east of the Meadows Shore Marsh complex in Dartmouth, MA. The site is located in the Buzzards Bay watershed, within the New Bedford Harbor Environment. Coordinates: N 41 32.32, W 70 56.26.

Timeframe: Project design would begin immediately upon approval. Anticipated construction start date is approximately 20 months from project award.

Rationale for Adoption

Affected resources addressed: The proposed project will restore salt marsh and the natural resources supported by a salt marsh, including plants, mammals, birds, fish and shellfish that have been negatively affected by the PCB contamination of the New Bedford Harbor Environment.

Nexus to PCB Injury: Marshes on the eastern side of the Harbor north of Coggeshall Street have high levels of PCB contamination. Marine and estuarine resources are exposed to PCBs each time they use these marshes resulting in detrimental health effects. EPA's ROD (EPA 1998) specifies dredging of salt marsh where PCB levels exceed 50 ppm. Despite the progress made in removing contaminated sediments around the harbor, it will still be a number of years before these areas will be dredged and restored. Even then some salt marsh will remain relatively contaminated (0-50 ppm). Restoration of marsh habitat that is in the vicinity of New Bedford Harbor but is not impacted by contaminants will help support species of fish, shellfish and other natural resources dependent on marshes that have been injured within the New Bedford Harbor Environment.

Benefits to Resource: Salt marshes are among the most biologically productive ecosystems, providing habitat to hundreds of organisms. They are of particular importance to the lower trophic levels, that is, the base of the estuarine food pyramid, which supports such top predators as fish, birds of prey, and humans. In addition, salt marshes play critical physical and chemical roles within the estuarine environment, trapping sediments, filtering pollutants, and buffering the effects of floods. This proposal would 1) restore up to 11.6 acres (4.69 ha) of salt marsh and its associated functions and values that had been lost within the New Bedford Harbor Environment; 2) enlarge the valuable tidal system (Meadow Shores Marsh) located adjacent to the marsh; 3) help stabilize and keep open the Meadow Shores tidal inlet which under current conditions periodically closes due to sedimentation and thus suffers from poor water quality; and 4) provide a restored habitat for marine species injured by the contamination of the New Bedford Harbor Environment.

Benefits to Community: Public benefit will be derived from the restored habitat for marine species and the construction of a perimeter walking trail for passive recreational purposes. A functioning salt marsh at this location will also provide a potential for increased birdwatching as well as improved water quality. An additional proposal goal

is to educate the public about the importance of habitat restoration and the work of the Trustee Council to implement CERCLA actions by placing interpretive signage at the entrance of the beach, which is actively used throughout the summer.

Technical Feasibility

Achievability: Replacement of a culvert combined with removal of fill that was placed on a salt marsh, followed by grading and planting with appropriate salt marsh species is a common restoration technique that has been routinely implemented successfully in New England. A proposed monitoring program will document the success of the project and the need for adaptive management measures, if necessary.

Reliability of Techniques: The proposed project will be implemented in a step-wise fashion. Step one: prepare engineering plans designed to maximize the restoration while protecting the septic system leach field that services the beach's bath house and the adjacent privately-owned property from increased surface and/or ground water levels. Step two: prepare and submit applications to the appropriate local, state and Federal regulatory agencies. Once all permits and authorizations are received, the project could proceed to the third step, construction. Step three: construction activities would address any permit conditions resulting from the regulatory review. It is expected that construction would likely occur during the late fall and winter months to avoid impacts to beachgoers. The applicant proposes to use Best Management Practices to minimize any construction-related impacts. Finally, the project would be overseen by a professional, licensed engineer to ensure that the project is constructed as designed and is consistent with the project plans and specifications.

The techniques described above are usual and customary for such a project and are highly likely to provide the expected results.

Impact of Remediation: The site is outside the area of remediation and thus would not be impacted by remediation activities.

Monitoring: NOAA Restoration Center (RC) and Massachusetts Division of Ecological Restoration personnel will conduct pre- and post-construction monitoring at this site. Minimum monitoring data will be obtained by monitoring structural and functional parameters, as described below. Site monitoring will follow the protocols of the Global Programme of Action Coalition for the Gulf of Maine (Neckles, H.A. and M. Dionne 2000)

1. Tidal hydrology. Tidal hydrology will be measured to determine the project's success in meeting its structural objective of increasing the tidal range within the restored marsh. Tide gauges would be placed downstream of Ray Peck Drive in Meadow Shores Marsh and in the restored marsh following project construction for one full lunar cycle. Pending proof of protection of low-lying properties, the current target value for the restored marsh tidal range is to equal that of the downstream tidal range.

2. Fish. Fish use of the tidal channels and marsh surface will be measured to determine the project's success in meeting its functional objective of reestablishing the restored marsh as fish habitat. The downstream Meadow Shores Marsh will be used as the reference and data on the number of fish species and density of numbers of fish per unit area will be collected. The target for the restored marsh will be similar numbers of species and density per unit area as the reference marsh.

3. Other parameters. Other parameters that may be monitored by the project team include pore water salinity and vegetation in the restored marsh.

Requested Funding: $2,949,275 (11.6 acre full build alternative) or $2,007,062 (6.9 acre minimum build.

Estimated Match: none proposed

Impacts on the Environment

Biological: This action would enhance the biological environment by creating a more diverse and functional habitat than that which is currently available at this location.

Impacts on injured resources: This proposed project will take place within the New Bedford Harbor Environment as defined by the Trustee Council. The proposed activity will provide enhanced habitat for fish, shellfish and bird species injured by the release of contaminants in the Harbor Environment. The adherence to Best Management Practices during the construction phase should ensure that no additional adverse effects on the injured resources would occur.

Impacts on other resources/habitats:

Vegetation: Salt marsh was present at the site until the marsh was filled in the late 1920's to construct an airfield including runways, an aviation school, hangars as well as farm facilities, dwellings and Massachusetts Institute of Technology research facilities. Only remnants of those structures remain. The site is now made up of a mix of upland vegetation (8.3 acres) (3.36 ha) and freshwater wetlands (7.2 acres) (2.91 ha). The upland vegetation consists of maritime shrubland and maritime juniper woodland. The wetlands consist of shrub swamp (4.1 acres (1.7 ha)), wet meadow (1.9 acres (0.77 ha)), emergent marsh (0.8 acres (0.32 ha) a Phragmites-dominated marsh (0.4 acres (0.16 ha)). The goal of the project is to restore the salt marsh that was historically present. The removal of the fill to achieve salt marsh elevations would result in the removal of the freshwater and upland vegetation that the fill currently supports. The newly-graded marsh surface would be replanted with salt marsh vegetation.

Wildlife: Upland and freshwater wetland species of reptiles, amphibians, mammals and birds would be displaced by the construction activities and some may be permanently displaced by the conversion from an existing habitat to a salt marsh. A feasibility study performed on the site concluded that: "None of the ecological communities that occur on

the site would be considered high-quality examples of those community types. No rare or exceptional communities were found; nor do these communities appear to be of value to rare wildlife species." (Louis Berger Group , 2009)

Fish and shellfish: The proposed project is expected to expand and enhance habitat for fish and shellfish resources by restoring the site to a tidal regime and allowing access by fish and other biota from Buzzards Bay.

Endangered species: none present

Physical: The proposed project will involve excavation and physical manipulation of the landscape. The goal of the project is to restore the area to salt marsh by removing the fill that was placed on the marsh to create the facilities described above. Any physical impacts will be done with the goal of restoring the area to a more natural environment and to correct the impacts that previously occurred. Any physical impacts would be addressed through the regulatory permit process.

A request was made to the Massachusetts Historical Commission (MHC) for a determination on whether the project would have an adverse effect on historic or archaeological properties within the project area. The MHC did not render an opinion pending submission of "scaled plans showing existing and proposed conditions for the project, including a description of planned restoration activities and equipment staging areas, when plans become available." (MHC 2008) If the project is approved for funding, design plans will be produced and the requested information will be submitted to the MHC for a determination. It should be noted that the area has already been highly altered and impacted by the fill and construction activities that occurred in the past.

Human: There will be a temporary impact to the human environment during construction (excavation and replacement of culvert) and through the temporary closure of Ray Peck Drive. Round Hill Beach is heavily used during the summer months so the applicant plans to schedule construction during the winter months to minimize disruption. The project location is at the end of a road and there are no other public access requirements other than beach access.

Preliminary Determination: The Trustee Council preliminarily approved the proposed project for possible implementation pending public comment on the decision and the proposed project. Given the diminishing amount of funds available, the Trustee Council proposes to fund the Minimum Build project option. If other sources of funds become available, the Trustee Council supports applying those funds to the full build option.

Preliminary Funding: $2,007,062 (funding for the Minimum Build option)

Final Determination: The Trustee Council approved the Round Hill proposal for funding but at a further reduced level to allow for funding of other restoration projects. The Trustee Council encourages the applicant to pursue other sources of funding

specifically funding resulting from the settlement of the 2003 Bouchard 120 Oil Spill which occurred in Buzzards Bay.

Final Funding: $1,300,000

4.3.1.3 Non-preferred Alternatives

There were no non-preferred alternatives for the Marshes or Wetlands restoration priority.

4.3.2 Water Column

The water column includes all fresh, salt and estuarine waters in the New Bedford Harbor Environment. PCBs are present in the water column where they can be a source of contamination to fish and wildlife species that use, live or swim in the water column. Demersal fish are subject to contaminant exposure through the water column as well as bottom sediments. Representative species include winter flounder (*Pseudopleuronectes americanus*) , bluefish (*Pomatomus saltatrix*), blueback herring (*Alosa aestivalis*) and Atlantic silverside (*Menidia menidia*). Phytoplankton and zooplankton, including copepod and diatom species, are exposed through the water column. Bivalve mollusks, including Atlantic ribbed mussel (*Ischadium demissum*), blue mussel (*Mytilus edulis*), Atlantic bay scallop (*Argopecten irradiens*), and the Eastern oyster (*Crassostrea virginica*), are exposed through the water column rather than the sediment. (EPA, 1990)

In addition to PCBs, other types of contamination may be present in the water column including human sewage, heavy metals, industrial discharge, salt and grit from roads, agricultural products, and petroleum products. All contribute to the degradation of the water column.

4.3.2.1 No-action Alternative: No Water Column Restoration

Pursuant to the no-action alternative, the Trustee Council would refrain from taking action to restore the water column, relying instead on wastewater treatment plant improvements and Harbor remediation, which includes treatment for removal of PCBs before water used for sediment transport is returned to the harbor. As discussed in Chapter 3 of the RP/EIS, the remediation will remove the bulk of, but not completely eliminate, the PCBs from the Harbor sediments. Exchange of contaminants between the sediments and water column is expected to continue, but to be greatly reduced following clean-up.

Under the no-action alternative, water-column concentrations of PCBs would be expected to decline over time. There is uncertainty as to when acceptable levels ("ambient water quality criteria" or AWQC) would be reached. As discussed in Chapter 3 of the RP/EIS, the process could take two decades or more. Other factors stand to

impede the recovery of the Harbor's water column from PCB contamination, particularly in the Inner Harbor and Upper Estuary. Most notable is the presence of the Hurricane Barrier, which restricts tidal flushing in these areas. (Note: the Trustee Council explored constructing one or more box culverts in the hurricane barrier but analysis determined that this would have only a limited localized effect benefiting harbor resources.)

Meanwhile, the water column of New Bedford Harbor remains the principal pathway by which living resources are exposed to the contamination from the Harbor sediments. As discussed in Chapter 3 of the RP/EIS, the fish, shellfish, birds, and invertebrates of the Harbor have been, and will continue to be, severely affected by PCB contamination of the water column of New Bedford Harbor.

The no-action alternative is rejected. Greater environmental benefits would not occur with taking no action. Instead the Trustee Council believes that accelerating recovery of the injured natural resources through restoration actions is the preferred approach.

4.3.2.2 Preferred Alternatives

The preferred approach is to initiate actions to enhance or restore the overall quality of the water column. This would require cooperative efforts with other agencies such as ACOE, EPA and local agencies. A water column free of, or containing fewer contaminants, will be less likely to pass contamination on to the natural resources that inhabit it.

There were no Round IV preferred alternatives for the Water Column restoration priority.

4.3.2.3 Non-preferred Alternatives

The following alternatives are non-preferred.

4.3.2.3.1 Water Quality and Habitat Enhancements Northern Fairhaven New Bedford Inner Harbor

Proposed Action: The goal of the proposed project is to substantially reduce the loading of sediment, bacteria pathogens, oil, nutrients and other contaminants from entering New Bedford Harbor through stormwater runoff treatment and sewer system improvements. The Town of Fairhaven proposes to go beyond the minimum state standards of 80% Total Suspended Solids (TSS) reduction through an aggressive program to treat stormwater through infiltration, biofilters and other means. The following tasks are proposed:

1) Design and install Low Impact Development Stormwater Treatment Best Management Practices (BMPSs) at the stormwater outfalls and/or improve storm water treatment and recharge on Pilgrim Avenue, Livesy Parkway, Main Street, Magnolia Avenue, Harding Road, Elm Avenue, Glenhaven Avenue, Parker Street, Cherry Street, Hedge Street, Milton Street, Sycamore Street, Long Road, Kendrick Avenue, River Avenue, Taber Street, Cooke Street, Huttleson Avenue,

Middle Street, Green Street, South Street, Church Street, and Fort Street within the Northern Fairhaven Inner Harbor Drainage Area;

2) Update existing sewer system I/I report and sewer and stormwater hydraulic model. Update the stormwater Capital Improvement Project Plan. Rehabilitate 1,200 feet of sanitary sewer pipes and manhole structures adjacent to and within Marsh Island. Disconnect sump pumps and roof drains from the sanitary sewer system from about 100 homes and commercial businesses;
3) Monitor and maintain BMPs for the contract period and for the life of the BMPs; and,
4) Provide educational outreach to the residents and businesses within the New Bedford Inner Harbor watershed.

The actions would be applied to over 30 storm drains and 300 catch basins currently discharging directly to over three miles of the New Bedford Harbor shoreline.

Location: New Bedford Inner Harbor/ Northern Fairhaven, MA

Resource Injury: The proposed project is designed to address injury to shellfish (American oysters (*Crassostrea virginica*), quahogs (*Mercenaria mercenaria*), soft shell clams (*Mya arenaria*)) harvesting areas, habitat (eel grass (*Zostera marina*)), swimming beaches, water column quality, wetlands, rare and endangered species (Roseate terns (*Sterna dougallii*)), anadromous fish and recreational fishing.

Resource Benefits: Improvements to water quality will benefit fish, shellfish and wildlife resources which transit and reside within the affected harbor environment. Improved water quality will also improve subaqueous vegetation (such as eelgrass) which needs sufficient light and clear water for growth.

Environmental Impacts: Minimal, short-term, temporary impacts are expected during implementation of the project due to directed construction activities. Impacts would be expected to be reduced through implementation of construction best management practices to reduce siltation, runoff or creation of dust.

Requested Funding: $2,420,470

Estimated Match: $651,000

Rationale for Non-preference: This proposal received a lower ranking using the specified NBHTC evaluation criteria than the other preferred proposals. Insufficient funds are available for the low ranked projects.

4.3.2.3.2 Regional Waterways Public Access Project at Clarks Cove in Dartmouth, MA

Proposed Action: The proposed project would be conducted in five phases:

1. Remediate two existing storm drains beneath the surface where a boat ramp is to be constructed.
2. Construct a boat ramp.
3. Construct a parking facility for 35 boat trailers and 27 vehicles.
4. Create an efficient traffic pattern by modifying traffic flow.
5. Purchase of adjacent land and building for education center and office space.

Location: Roger Street, Dartmouth, Massachusetts on Clarks Cove. Clarks Cove leads directly into Buzzards Bay and is part of the NBHE. Coordinates: N 41° 36' 30", W 70° 55' 53"

Resource Injury: This proposed project would address lost public use of marine resources in the New Bedford Harbor Environment as well as address the injury that occurred to the water column through the release of PCBs.

Resource Benefits: Benefits would be derived from the storm drain remediation. The applicant reports that the storm drain outlets create a direct negative impact on the shellfish resources of Clarks Cove resulting from the untreated urban runoff and create a localized area of high pollution levels. The proposed project would also enhance public access to Clarks Cove by providing an alternative location for entry and by reducing crowding at other locations.

Environmental Impacts: Potential adverse temporary environmental impacts would occur through construction activities to create the boat ramp and parking facility. Depending on the activity required to remediate the storm drains, some short-term adverse impacts from construction could result though it is expected that there will be overall benefits resulting from correcting storm water discharges. In-water work would require federal, state and local permits and care would be required to avoid or minimize the impact to marine resources (submerged aquatic vegetation, mudflat, shellfish, etc.) that may be present at the project location.

Requested Funding: $1,009,375

Estimated Match: $539,850

Rationale for Non-preference: This proposal received a lower ranking using the specified NBHTC evaluation criteria than the other preferred proposals. Insufficient funds are available for the lower ranked projects.

4.3.3 Habitats

Habitat is the complex of physicochemical features, hydrologic conditions, and living organisms within an ecosystem that provides food, areas for nesting or reproduction, resting areas and shelter for fish and wildlife. Habitat restoration is a basic component of natural resource restoration in the New Bedford Harbor Environment, since, as described in Chapter 3 of the RP/EIS, habitat is essential to the living resources of the

Harbor. Restoration, enhancement, protection or replacement of habitat in the New Bedford Harbor Environment has the potential to substantially improve the abundance and health of a wide variety of living natural resources.

4.3.3.1 No-action Alternative: No Habitat Restoration or Enhancement

Under the no-action alternative, the Trustee Council would not undertake any further actions to restore or enhance habitat in the New Bedford Harbor Environment beyond those actions already implemented under Rounds I, II, and III. Under this alternative, animals and plants would continue to live in habitats degraded by PCB contamination and other factors. In many cases, this would preclude the success of efforts to restore living resources injured by the PCB contamination, because habitat restoration is often the most cost-effective way--indeed in many cases, the only practical way--to restore populations of plants and animals.

As discussed in Chapter 3 of the RP/EIS, PCB contamination in the New Bedford Harbor Environment has depressed populations of plants and animals and reduced the diversity of estuarine species. However, in a highly urbanized environment such as New Bedford Harbor, most living resources--plants, fish, shellfish, birds, and terrestrial animals--are subject to multiple stressors from the cumulative impacts of contamination, habitat loss, and other factors. Habitat loss is often a critical factor preventing the recovery of populations that have been depressed or otherwise injured by contamination or other forms of environmental degradation in a developed estuary such as New Bedford Harbor.

The no-action alternative is rejected. The no-action alternative would prevent some resource populations in New Bedford Harbor from recovering from the effects of PCB releases, and would greatly extend the period of recovery for others. The no-action alternative could lead to missed opportunities to protect and preserve land leading to potential impacts from development. The Trustee Council believes that accelerating recovery through restoration activity will provide greater environmental benefits than the no-action alternative.

4.3.3.2 Preferred Alternatives

The preferred alternatives are those that provide direct restoration or enhancement of affected habitat. In many of the affected habitats of the New Bedford Harbor Environment, however, restoration must wait until cleanup is complete. Therefore, the Trustees' continued focus will be on those areas that can be enhanced before cleanup is completed to provide greater habitat value and environmental returns as well as providing protection from future stressors to the natural resources.

4.3.3.2.1 Acushnet Sawmill Ecological Restoration

Project Description

Proposed Action: The goal of the proposed project is to restore a functioning, ecological habitat at the 19 acre (7.69 ha) former Acushnet Sawmill property. The property borders both the west and east bank of the Acushnet River and currently contains a road, paved areas, buildings, fencing and retaining walls along the river. Approximately 5 acres (2.02 ha) of impervious cover would be removed; fill would be removed; regrading would be done at several locations on the site; hydrologic conditions would be restored and reconnected; hardened riverbank would be removed and restored to a natural riparian edge; appropriate native vegetation would be replanted; and the restoration effort would be monitored. In addition, park amenities such as a parking area, one mile of hiking trails and a canoe/kayak launch would be constructed. Educational signage and a trail would be created.

Location: Acushnet, MA along Mill Road at the mouth of the freshwater Acushnet River and beginning of the Acushnet River Estuary. Coordinates: N 41° 41' 03", W 70° 55' 06"

Timeframe: If awarded, a request for proposals would be developed and advertised for design plans, project permitting and construction specifications. Construction would then commence and be completed within 24 months from project award. Irrigation of the planted areas and monitoring would continue for the balance of the award period.

Affected resources addressed: The proposed project will improve habitat for diadromous fish, birds, sediments and wetlands that were impacted by the PCB contamination.

Rationale for Adoption

Nexus to PCB Injury: Riparian habitat was lost or injured due to PCB contamination along the Acushnet River. The site provides protection to equivalent natural resources, particularly diadromous fish, injured by the contamination. The site is also the location of the completed river herring fish passage project at the Acushnet Sawmill Dam, which reopened upstream passage to spawning habitat. The project would undertake ecological restoration of the site resulting in a more natural setting and greater protection of the river and the natural resources using the river.

Benefits to Resource: The restoration of the site would provide improved habitat for wildlife and birds, improve or prevent further degradation of water quality downstream through the removal of impervious surfaces and provide protection of passive recreation lands and/or fish and wildlife habitat.

Benefits to Community: One of the types of actions that have been employed by the Trustee Council in previous funding rounds is land acquisition. Section 4.3.4.2 of the RP/EIS provides the rationale for land acquisition and the procedures that are followed to determine the appropriateness of providing funds for an acquisition. In general, funding of the acquisition of a fee and/or conservation interest in property by appropriate applicants enables the Trustee Council to permanently protect the property from future

commercial or residential development. It preserves the habitat and natural resources present in or using the site. Further enhancements can be realized if there is an opportunity for appropriate habitat restoration on the site.

The site is currently closed to public access since it is the location of commercial businesses. The restoration would allow public access and passive recreation on the site.

Technical Feasibility

Achievability: A feasibility study/preliminary design (Louis Berger Group, 2008) has been conducted for the ecological restoration of the site. The feasibility study determined that the proposed work is feasible and developed design alternatives. The results of this work have been reviewed and will guide the final design and construction documents.

Reliability of Techniques: The type of construction proposed (removal of impervious surfaces and fill, regrading, planting) are the usual techniques used for this type of restoration. The techniques have a high probability of achieving the desired restoration results. Following construction, the site will be monitored to determine the success of the restoration (see below).

Impact of remediation: This site is outside of the area expected to be impacted by remediation activities although PCB contamination and cleanup activities have occurred just downstream of the site. If any remedial work were to occur at the southern end of the site, it would only involve removal of instream sediments, which should not impact the restoration activities.

Monitoring: The NBHTC has established a policy (NBHTC 2005) that all NBHTC-funded restoration projects be monitored to determine projects' success in meeting its goals. The applicant proposes the following to monitor the restoration:

1) compare existing conditions plans with proposed construction plans and as-built plans;
2) create and maintain an active baseline documentation report with replicable photopoints using Global Positioning System coordinates and compass bearings for the restoration areas and their surroundings, before, throughout and after implementation;
3) record and document existing vegetative cover of proposed restoration areas and post vegetative cover after restoration, assessing percent cover, survival of plantings and species composition;
4) continue to measure water level and temperature through the Coalition for Buzzards Bay's year-round River Watch Monitoring Program; and
5) continue to count diadromous fish that pass through the area of the former Acushnet Sawmill Dam.

Requested Funding: $1,644,993

Estimated Match: $0

Impacts on the Environment

Biological: The goal of the proposed project is to provide ecological restoration to the Acushnet Sawmill site, returning it to more natural conditions and reversing the impacts caused by the commercial development and use of the site. There may be some limited and temporary impact to upland areas during construction but the result will be a larger and more productive natural area. There will be an increase in the functions and values of each of the resulting habitat types (river, streams, riverbank, riparian marsh, riparian forest, emergent marsh, wooded swamp, upland forests and open fields).

Impacts on injured resources: There will be limited, short-term impacts during the construction period to injured natural resources (fish, birds, vegetation). The result of this activity will be a greater area of suitable habitat for use by these resources.

Impacts on other resources/habitats:

Vegetation: Most of the construction activities will take place on impervious surfaces as the focus of those construction activities is the removal of those surfaces. There is minimal vegetation in these areas and any impacts from this activity would be minimal. As the impervious surfaces are removed, soil will be placed in these areas followed by grading and planting. This will result in a net gain of vegetation. The site will also have a variety of vegetation owing to the variety of habitats resulting from the ecological restoration.

Wildlife: There will be temporary impacts to wildlife (mammals, reptiles, amphibians, insects and birds) during the construction at the site. Species found within these areas would be expected to move to other areas and then repopulate the restored areas. Once completed, there will be an increased area of varying habitat that will benefit a variety of species providing a net gain over what was previously available.

Fish and shellfish: Protection of the Acushnet River will occur during the construction of the ecological restoration. After construction there will be permanent protection of the fish and shellfish resources inhabiting the river on the site and a further reduction or elimination of impacts posed by the commercial operations.

Endangered species: No known listed endangered or threatened species are present in the proposed project area.

Physical: The proposed ecological restoration will involve, by design, construction techniques that will cause physical impacts to existing conditions. Removal of asphalt, concrete and physical structures is necessary to restore the property to a more natural riverine environment. Funds are not being provided for the removal of buildings located

on the property. The design includes elements that will result in better habitat for a variety of terrestrial and avian species.

The previous acquisition of the property along with the conservation easement was determined to have no impacts on cultural resources (archaeological or historical) or on land use patterns beyond those described above. That determination was forwarded to the MHC for confirmation. Consultation with MHC was originally initiated with the filing of a Project Notification Form (PNF) accompanying the Environmental Notification Form for the Acushnet Sawmill Dam fish passage project. Given that there was now a new proposal to conduct additional restoration activities on the site a new PNF was filed on this application to conduct the ecological restoration. The MHC responded that a review of the files and materials provided that it was "determined that this project is unlikely to affect significant historic or archaeological resources." (MHC, 2009)

Human: Beneficial impacts will occur through increased access to, and appreciation for, the property's natural resources.

Preliminary Determination: The Trustee Council preliminarily approved the proposal for possible funding pending public comments on its decision and the project.

Preliminary Funding: $1,644,993

Final Determination: After review and consideration of the public comments received on this project, the Trustee Council has decided to approve this project for implementation and funding, but at a reduced level. Funding will be provided upon receipt of an approved, revised scope that is consistent with the lower funding amount. For those aspects of the project that restore, replace or acquire the equivalent of the injured natural resources.

Final Funding: $1,197,493

4.3.3.2.2 LaPalme Riverside Farm Acquisition

Project Description

Proposed Action: The proposal is to purchase 46.6 acres (18.86 ha) of undeveloped waterfront lands including over 1,900 feet of shoreline along the Acushnet River. The property is described as the largest remaining undeveloped land parcel along the Acushnet River between the Acushnet Sawmill and Hamlin Street. The western half of the property (approximately 23 acres (9.31 ha)) is forested while the eastern half is open field that was previously used as cattle pasture. There are approximately 10 acres (4.05 ha) of wetlands and two small streams on the property. Existing trails provide access to the site allowing access from Blain Street and leading to the Acushnet River. The only structures on the site are two dilapidated sheds and fencing.

Due diligence tasks (real estate appraisal, title examination, boundary survey, environmental site assessment and baseline property assessment) would be conducted. The purchase would be by fee acquisition and a conservation restriction would then be placed on the property to provide permanent conservation. Once purchased, the applicant would install signage and make some limited improvements to the walking trails. Using a separate source of funds the applicant also intends to create a trailhead with an associated, pervious surface, parking area off of Blain Street.

Location: 70º54'58"W 41º41'23"N, In Acushnet, MA along the eastern bank of the Acushnet River extending east towards Blain Street. It is approximately 1,200 feet (365.8 m) upstream of the Acushnet Sawmill Site (See Section 2.3.3.2.2.)

Timeframe: A purchase and sale agreement has been negotiated and is contingent upon approval of funding. Upon approval, pre-acquisition activities (due diligence) would commence and take approximately six months to complete. Upon completion the purchase could occur followed by the development of a conservation restriction which would be put in place.

Affected resources addressed: Diadromous fish, sediments and wetlands that were impacted by PCB contamination.

Rationale for Adoption

Nexus to PCB Injury: Riparian habitat was lost or injured due to PCB contamination of the Acushnet River. The proposed property is located along the Acushnet River but in an area of the river not affected by contamination.

Benefits to Resource: Acquisition of riverine and coastal habitat provides protection of water quantity and quality downstream and the protection of fish and wildlife habitats and/or passive recreation lands. The project would acquire the equivalent of river habitat lost or injured due to PCB and other contamination along the estuary.

Benefits to Community: Portions of the protected acreage will be made available for public access. Walking trails exist on the western portion of the site and availability of uplands for limited parking exists.

Technical Feasibility

Achievability: The proposed project would be completed using a fee simple purchase and conservation restriction on the property. Acquisition of a fee interest and imposition of a conservation restriction will result in permanent protection of the property and the adjoining brook from future development.

Reliability of Techniques: Land acquisition with the imposition of a conservation restriction is a proven method for preserving and protecting natural resources while enhancing recreational opportunities and public use.

Impact of remediation: This site is located upriver of the area to be addressed by remediation activities and will not be affected by those activities.

Monitoring: The NBHTC has established a policy that all NBHTC-funded land preservation projects must be monitored to ensure compliance with the site's Conservation Easement. For the first five years following the purchase of the property, the property owner must submit an annual report, certified by the holder of the Conservation Easement, to the NBHTC Coordinator describing the general condition and use of the site and comparing that with the conditions contained in the Conservation Easement.

Requested Funding: $1,022,605

Estimated Match: $50,000

Impacts on the Environment

Biological: Benefits to biological resources should occur or remain unchanged through permanent protection and preservation of this site from future development.

Impacts on injured resources: There are no expected negative impacts to injured natural resources (fish, shellfish, birds, vegetation) through the acquisition and/or imposition of a conservation restriction of this property. Rather, there will be continued protection of habitat suitable for sustaining these resources.

Impacts on other resources/habitats:

Vegetation: While the purchase and imposition of a conservation restriction will provide protection and preserve wetland and upland vegetation located on this property, some impacts may occur to vegetation adjacent to walking trails or if additional walking trails are created. Such impacts could include crushing of native plants or erosion. There are walking trails on the property and visitors should be encouraged to stay on the trails to minimize the impact to the native vegetation along the trails.

While not included in the Trustee Council funding request, the applicant intends to create limited parking off of Blain Street. The area proposed is composed of upland grasses which would be removed and replaced with a pervious surface parking area allowing drainage. The creation of this parking area will reduce the impact on the Blain Street neighborhood and will only impact low value upland grasses.

Wildlife: The purchase and imposition of a conservation restriction will provide protection to and preserve the vegetation located on this property, and help prevent decreases in water quality thus benefiting the wildlife living on or using the property.

Fish and shellfish: The purchase and imposition of a conservation restriction will provide protection to and preserve the fish and shellfish resources located in the brooks on the property and in the Acushnet River which borders the western bank of the property.

Endangered species: No listed threatened or endangered species are known to be present in the proposed project area.

Physical: Minor physical impacts are expected to occur through increased passive recreational use of the property. The western portion of the property already has trails which are used by the public for both walking and biking. The purchase and imposition of a conservation easement on the property has the potential to increase public use. It is expected that the use will continue to be walking and biking, though instead of use by local neighbors as occurs now, there could be increased use by others arriving by car. The existing street will accommodate some parking near the start of the property and trail system but to reduce the impact on the neighborhood, the applicant intends to create a pervious surface parking area (previously described). The Trustee Council will work with the applicant to identify and protect any sensitive areas located on the property from incidental public use through the use of appropriate signage and education.

Though no impacts on cultural resources (archaeological or historical) or on land use patterns beyond those described above are expected, the property will be subject to some restrictions. The Massachusetts Historical Commission (MHC) (MHC 2009) review of the proposal determined that the LaPalme property is located adjacent to a recorded Native American archaeological site. The spatial extent of the archaeological site has not been determined but the LaPalme property exhibits an environmental setting favorable for ancient and historic period land use and occupation. MHC acknowledged that acquisition of the LaPalme property will preserve any archaeological sites that may be present and requested that the draft conservation restriction be submitted to MHC for review and comment.

The MHC also expressed concern that the proposed demolition of two dilapidated sheds and fencing, and the proposed construction of fencing, gravel parking lot, trails and interpretive signage may impact significant archaeological resources. The MHC requested that project plans and specifications avoid or minimize ground impacts and that those plans consider alternatives to avoid ground impacts. The MHC concluded by requesting that plans and specifications be submitted for its review and comment.

If the project is funded and a grant awarded, the grant would be conditioned to make sure that the planning addresses the MHC's concerns, develops appropriate alternatives and that the applicant work with NOAA when consulting with the MHC.

Human: Beneficial impacts will occur through increased access to open space and natural resources on those portions of the property where access would be allowed.

Preliminary Determination: The Trustee Council preliminarily approved the project for possible implementation pending public comment on its decision and the project.

Preliminary Funding: $1,022,605

Final Determination: After review and consideration of the public comments received on this project, the Trustee Council has decided to approve this project for implementation and funding, but at a reduced level. Funding will be provided upon receipt of an approved, revised scope that is consistent with the lower funding amount for those aspects of the project that restore, replace or acquire the equivalent of the injured natural resources. Funding for the land purchase will only occur after the pre-acquisition tasks (title examination, appraisal, environmental site assessment and survey (if necessary)) have been completed and any issues resulting from these tasks have been resolved.

Final Funding: $600,000

4.3.3.2.3 Acushnet River Upland Riparian Restoration Plan

Proposed Action: The proposed project would restore the area 25 feet (2.3 m) landward of the Top of the Coastal Bank of the Acushnet River defined as the Upland Riparian Zone. The proposal includes:

1) Acquisition of the property within the Upland Riparian Zone;
2) Final design and permitting;
3) Construction of the Upland Riparian Zone project to include:
    a. Removal of all debris, fill and invasive vegetation;
    b. Minor grading to construct a 4 foot (1.2 m) wide pedestrian walkway;
    c. Minor grading and placement of clean soil/loam to support proposed plantings;
    d. Planting of native vegetation (including Switchgrass (*Panicum virgatum*), Sand Lovegrass (*Eragrostis trichodes*), Side Oats Grama (*Bouteloua curtipendula*), Seaside goldenrod (*Solidago sempervirens*), Beach pea (Lathyrus japonicus), Blazing star (Liatrus spicata), Sandberry (*Arctostaphylos uvaursi*), Groundsell (*Baccharis halmifolia)*, Beach plum (*Prunus maritimia*), Virginia Rose (*Rosa virginiana*)
    e. Monitoring during construction to ensure compliance with all specifications and permits; and
    f. Post construction monitoring to ensure successful restoration through documentation of vegetation inventories and implementing (if necessary) invasive species control.

The total area to be restored extends approximately 11,600 feet (1077.7 m) along the shoreline for a total of 6.6 acres (2.67 ha) of land. Of this, restoration of the vegetation will total approximately 5.6 acres (2.27 ha).

Location: City of New Bedford, along the western shore of the Acushnet River between Coggeshall Street and Tarkiln Hill Road.

Timeframe: The proposed project is expected to take four years from the date of the award to complete.

Affected resources addressed: Native vegetation, habitat, native soils and recreational opportunities.

Rationale for Adoption

Nexus to PCB Injury: The resources of the Upland Riparian Zone have been degraded through development of the waterfront for mill buildings and industrial facilities. Some of these facilities were the source of hazardous releases including PCBs. Injuries in this zone include the destruction of the native vegetation and habitat and alteration of the native soil characteristics from filling and other alteration. This contributed to contamination of the Acushnet River from both point and non-point sources which flowed from or across the Upland Riparian Zone.

Benefits to Resources: The proposed project would restore native coastal riparian shrub and meadow habitat, which should broadly increase the diversity of avian, mammalian, reptilian and insect use of the area. The planting of native coastal grasses would provide greater stability as well as food and shelter birds and small mammals. The vegetation planted in the Upland Riparian Zone would provide filtration of overland stormwater from adjacent developed lands leading to an increase in water quality.

Benefits to Community: Public benefits would occur through the allowance of limited public access with interpretive trail and improved aesthetic values. The trail will inform the public of the functions and values of the existing habitats and their conservation importance.

Technical Feasibility

Achievability: The land preservation component of the proposed project would be completed using a fee simple purchase and conservation restriction on the property. Acquisition of a fee interest and imposition of a conservation restriction will result in permanent protection of the property from future development.

The debris removal, landscaping and construction will provide better filtering of overland water flow, stabilization of the bank, a more natural vegetative community and enhanced recreational opportunities.

Reliability of Techniques: Land acquisition with the imposition of a conservation restriction is a proven method for preserving and protecting natural resources while enhancing recreational opportunities and public use. The removal of debris, planting

and related construction of a walkway will utilize standard landscaping and construction techniques which should be highly successful.

Impact of Remediation: This is an upland area along the river which would not be impacted by the remedial dredging occurring in parts of the river in this area. Where portions of the proposed restoration are located in former industrial areas, there may be hazardous substances present. An environmental site assessment will have to be conducted to determine if hazardous substances are present and what remedial activities, if any, would have to occur. The assessment will also determine what activities can occur in these areas.

Monitoring: Where a component of the project involves land acquisition, the NBHTC has established a policy that all NBHTC-funded land preservation projects must be monitored to ensure compliance with the site's Conservation Easement. For the first five years following the purchase of the property, the property owner must submit an annual report, certified by the holder of the Conservation Easement, to the NBHTC Coordinator describing the general condition and use of the site and comparing that with the conditions contained in the Conservation Easement.

In addition, the applicant will prepare and submit annual reports by December 1 of each year. These reports will document general vegetation growth and health, soil and bank stabilization, locations of significant erosion, bare ground, damage to vegetation, identification and locations of invasive species, and wildlife observations. These reports will form the basis of maintenance activities for the following year.

Requested Funding: $6,059,609

Estimated Match: $0

Impacts on the Environment

Biological: Benefits to biological resources should occur or be enhanced through the alteration of the impacted environment and the protection and preservation of this upland area from future development.

Impacts on Injured Resources: There are no expected negative impacts to injured natural resources (fish, shellfish, birds, vegetation) through the purchase and imposition of conservation restriction, the plantings and shoreline stabilization of this area. Rather there will be enhanced habitat suitable for sustaining these resources.

Impacts on other Resources/Habitats:

Vegetation: While the purchase and imposition of a conservation restriction will provide protection and preserve the area located in this area, the quality of the land and vegetation is poor. The intent of the project is to restore this land and replant the area with native vegetation. Impacts will occur to the existing vegetation as it is removed and

replaced. To minimize impacts to the replanted vegetation, a walking path will be created along with limited fencing and shrub placement to keep people on the path. Visitors should be encouraged to stay on the path to minimize the impact to the native vegetation along the path and the shoreline bank.

Wildlife: The purchase and imposition of a conservation restriction, and the plantings and shoreline stabilization will provide protection, enhance vegetation and habitat, and help prevent decreases in water quality providing enhanced benefits to wildlife living on or using the property.

Fish and Shellfish: The purchase and imposition of conservation restriction, and the plantings and shoreline stabilization will provide protection and improved water quality for fish and shellfish resources located in the Acushnet River bordering the property.

Endangered Species: No listed threatened or endangered species are known to be present in the proposed project area.

Physical: Minimal short-term impacts would be expected during construction of the walking path including removal of fill and debris, and grading. These are upland areas that have been used for extensive industrial development. There may be contaminants in the soil that ground-disturbing activities could expose. As part of the proposed acquisition, an environmental site assessment should be conducted early to identify any areas of contamination, should they exist. Until such an assessment is conducted on the various properties involved, it remains unknown what contamination may be present. The property owner(s) would be responsible for removing any contaminants found through the assessment.

A portion of these lands include the Aerovox facility, one of the sources of PCB contamination of the Acushnet River. The land between the Aerovox Facility and the river has been determined to be contaminated and actions were taken to limit exposure through paving over the land and constructing a sheet pile wall along the river. This area will be the subject of future actions involving the razing of the Aerovox Facility, a vacant, contaminated building. All work in this area must be coordinated with the EPA.

The MHC (MHC 2011) review of the proposal determined that there are historic properties within or adjacent to the proposed project area. These include Whitman Mills Historic District (NBE.V) and Head of the River Historic District (NBE.AM) listed in the National Register of Historic Places, and several inventoried historic properties, including Manomet Mills #1 and #2 (NBE.635, 636). The MHC previously offered the opinion that the Manomet Mills #1 and 2 are eligible for listing the National Historic Register. The MHC recommended that the project information be provided to the New Bedford Historical Commission and any other organization that requests information, for review and comment.

Human: Only beneficial impacts would be expected through the completion of the project. The area where the project would occur was formerly used for industrial

purposes and much of the area was unsafe for access. The completed project will remove debris, plant vegetation and create a walking path. The activities will open the area to people who can use the project area to enjoy the river and surrounding area.

Preliminary Determination: This proposed project was initially not chosen for funding because it scored lower in the merit ranking than other submitted project applications. At the time of the preliminary funding decisions, insufficient funds were available for the low ranked projects.

Preliminary Funding: $0

Final Determination: After review and consideration of the public comments received on this proposal, the Trustee Council has decided to approve this proposed project for implementation and funding, but at a reduced level consistent with a revised funding level proposed by the applicant. Funding will be provided upon receipt of an approved, revised scope that is consistent with the lower funding amount for those aspects of the project that restore, replace or acquire the equivalent of an injured natural resource. The scope will need to specify the steps and timeline with milestones for completion of the project. Funding for the land purchase component will only occur after the pre-acquisition tasks (title examination, appraisal, environmental site assessment and survey (if necessary)) have been completed and any issues (e.g. remediation of contamination) resulting from these tasks have been resolved.

Final Funding: $2.9 million

4.3.3.2.4 Palmer's Island Sanctuary and Interpretive Trail

Proposed Action: The following restoration activities are proposed for Palmer's Island, a 5.6 acre island located in New Bedford Harbor immediately north of the Hurricane Barrier:

1) Place a conservation restriction on the island that protects and preserves the island from future development but also allows passive recreation;
2) Develop an interpretive trail composed of a self guided trail with signage educating the public on the functions and values of existing habitats, their conservation importance and the history of the island and its inhabitants;
3) Develop and implement an invasive species management plan for 0.4 acres (0.16 ha) of upland habitat dominated by Asiatic bittersweet *(Celastrus orbiculatus*) by the removal of plants by hand and the application of herbicide;
4) Develop a short-term and long-term natural resource management plan; and
5) Map the brackish wetland area and monitor if the common reed (*Phragmites australis)* and poison ivy (*Rhus radicans*) located there have expanded into other areas.

Location: Palmer's Island is located at the mouth of the Acushnet River on the north side of the Hurricane Barrier (Coordinates: 41°37'29" N, 70°54'36" W)

Timeframe: The project is expected to take two years from the date of the award to complete with some monitoring to continue for an additional year.

Affected resources addressed: Native vegetation, habitat, native soils and recreational opportunities.

Rationale for Adoption

Resource Injury: This proposed project would restore impacted habitat through the implementation of an invasive species management plan and provide permanent protection against development of the site. Shoreline within the Harbor Environment was impacted through the release of PCBs and other contaminants. This site is within the Harbor Environment and lower levels of PCB contamination are expected to be found in the surrounding waters.

Resource Benefits: Protection of the island habitat would occur through the conservation restriction being placed on the island and the development of a management plan. This is designed to preserve the island as a natural sanctuary. Additional benefits would occur through the restoration of 0.4 acres (0.16 ha) of upland habitat to native coastal vegetation. Preserving natural areas in the harbor is important given the limited opportunities in an active harbor.

Benefits to Community: Public benefits would occur through the allowance of limited public access with an interpretative trail and lookout area. Signs on the trail will inform the public of the functions and values of the existing habitats and their conservation importance to past inhabitants. The island has been used for a variety of purposes dating back to pre-Revolutionary War times. Incorporating the telling of this history in trail signage will inform the public of its importance in the harbor.

Technical Feasibility

Achievability: The proposed project is readily achievable and the desired results are achievable. The activities proposed should attract people to the island. With proper signage and barriers, desired habitat will be protected.

Reliability of Techniques: Prior to construction the applicant will obtain the necessary permits and contract an engineer for engineering plans. Standard construction techniques are proposed for constructing the walking path and signs. These techniques should provide the desired results. The habitat mapping should use standard scientific methods and should be easily repeatable. Removal of invasive species will be accomplished through methods that may include hand removal, and localized herbicide application followed by monitoring.

Impact of Remediation: The island is not an area expected to be impacted by remediation activities although there are lower levels of PCB contamination in the sediments of the surrounding waters. Any remediation of these in-water areas should

not affect the island. It is not known if PCBS or other contaminants are present on the shoreline of the island.

Monitoring: The NBHTC has established a policy (NBHTC 2005) that all NBHTC-funded restoration projects be monitored to determine project success in meeting its goals. The applicant proposes the following to monitor the restoration activities:

1) Identify and map locations of invasive species present on the island;
2) Establish vegetation plots and determine success through percent cover (goal: 75% cover of native species);
3) Establish transects to measure the percent cover and the extent and areal growth of *Phragmites australis* and *Rhus radicans*.

In addition, the NBHTC has established a policy that all NBHTC-funded land preservation projects must be monitored to ensure compliance with the site's Conservation Easement. For the first five years following the purchase of the property, the property owner must submit an annual report, certified by the holder of the Conservation Easement, to the NBHTC Coordinator describing the general condition and use of the site and comparing that with the conditions contained in the Conservation Easement.

Requested Funding: $1,113,619

Estimated Match: $0

Impacts on the Environment

Biological: Benefits to biological resources should continue to occur through permanent protection and preservation of the site from future development. There will be short term impacts during the construction phase and the applicant will be required to comply with any permit requirements to minimize those impacts.

Impacts on Injured Resources: There are no expected negative impacts to injured natural resources (fish, shellfish, birds, vegetation) through the purchase and imposition of a conservation restriction, short-term construction, the removal of invasive species and the replanting of native vegetation. Rather there will be enhanced habitat suitable for sustaining these resources. Common and Roseate Terns can be found on the island during feeding trips to New Bedford Harbor. Only short-term impacts are expected though increased recreational use may provide more frequent interaction.

Impacts on other Resources/Habitats:

Vegetation: By design, there will be impacts to vegetation through the removal of invasive species and by the potential control of poison ivy, proposed for potential control, is a native species with value to wildlife.

Wildlife: There will be temporary impacts to wildlife (mammals, reptiles, amphibians, insects and birds) during the construction at the site. Species found within the area of trail construction, invasive species control and mapping (to a much lesser extent) would be expected to move to other areas during these activities and then move back upon completion. Once completed, there is expected to be better habitat for the species present resulting in a beneficial effect, however there will be a continued detrimental effect to wildlife from increased public use of the island.

Fish and Shellfish: There should be no impacts to fish and shellfish during the construction of the walking trail or installation of signs.

Endangered Species: Palmers Island is mapped as habitat for rare or endangered species by the Massachusetts Natural Heritage and Endangered Species Program (NHESP). Consultation will have to be conducted with the NHESP before any construction work commences on the island.

Physical: There will be minimal impacts through the increased public use of the island provided that use is limited to trails and designated areas.

Consultation with MHC was initiated with the filing of a Project Notification Form (PNF) which described the original proposal. The MHC responded (MHC 2011 a) that the proposed project location contains historic properties listed in the National Register of Historic Places including Palmer's Island Light Station (MHC# NBE.AD and NBE.907) and the Light Keeper's House archaeological site (MHC# NBE.HA.7) included in the Inventory of Historic and Archaeological Assets of the Commonwealth. Portions of the island are archaeologically sensitive and other archaeological sites are expected in areas of the island that have not been previously impacted. The island was highly likely to have been used during ancient and historic times by resident Wampanoag and was used as a prison during the War of 1675, a garrison during the Revolutionary war, and for summer homes and a hotel in the 19th century.

The MHC urges project planners to consult with knowledgeable historians, including members of the Wamponoag Nation, in developing the text and images for the interpretive trail. The MHC also suggests that a website be used to provide additional historical information. Signage and rules posted on the island should prohibit metal detecting, digging or artifact collecting.

MHC requested the opportunity to review and comment on the draft conservation restriction, and project plans for the interpretive sign installations and any other activities involving excavation, grading or new construction. The design plans should avoid or minimize ground impact within area not previously impacted.

The MHC did offer that the proposed woodchip trail, the invasive species management and the wetlands mapping components of the proposal are unlikely to adversely affect any important archaeological sites.

Human: Beneficial impacts would be expected through the completion of the proposed project, specifically the construction of the walking path and interpretive signage. The activities will open the area to people who can use the project area to enjoy the river and surrounding area.

Preliminary Determination: This proposal was initially not chosen for funding because it scored lower in the merit ranking than other submitted project applications. At the time of preliminary funding decisions, insufficient funds were available for the low ranked projects.

Preliminary Funding: $0

Final Determination: After review and consideration of the public comments received on this project, the Trustee Council has decided to approve this proposal for implementation and funding, but at a reduced level. Funding will be provided upon receipt of an approved, revised scope that is consistent with the lower funding amount for those aspects of the project which restore, replace or acquire the equivalent of an injured natural resource. For example, funding is provided for the conservation restriction, trail work, signs and invasive species management but not for the pedestrian bridge or relocation of the osprey pole (proposed in the original application). Funding for the conservation restriction will only occur after the pre-acquisition tasks (title examination, appraisal, environmental site assessment and survey (if necessary) have been completed and any issues resulting from these tasks have been resolved.

Final Funding: $100,000

4.3.3.3 Non-preferred alternatives

4.3.3.3.1 Enhancement of Bottom Habitat for Marine Species in Buzzards Bay as Related to the New Bedford Harbor Clean-up

Proposed Action: The proposed project would deploy an artificial reef in the New Bedford Outer Harbor or Buzzards Bay area as a means to enhance bottom habitat and would be conducted in three phases. Phase I would include the selection of an appropriate location in Outer New Bedford Harbor or Buzzards Bay, collecting data to determine site feasibility for habitat enhancement and securing the required permits. Phase II would involve the issuance of work contracts, the purchase of materials and the construction of the reef. The proposed reef would consist of six 400 m^2 (10 m x 40m) rectangular reefs and three natural substrate control plots. Phase III would conduct monitoring of the reef through visual, dive surveys, optical acoustic surveys and lobster sampling.

Location: New Bedford Outer Harbor, eastern Buzzards Bay. Location of reefs would be determined by site selection criteria specified in Matthews 1979, Castro et. al 1996, and DeAlteris 1996.

Resource Injury: Bottom habitat has been adversely impacted by the release of PCBs which settled into the bottom sediments. Living resources that use or come in contact with these bottom sediments risk injury from the PCBs. An artificial reef could provide an alternative location of favorable habitat for the living resources. Species expected to benefit from a constructed reef include American lobster (*Homarus americanus*), bluefish (*Pomatomus salatrix*), cunner (*Tautogolabrus adspersus*), scup (*Stenotomus chrysops*), striped bass (*Morone saxitilis*) summer flounder (*Paralichthys dentatus*), tautog (*Tautoga onitis*), winter flounder (*Pseudopleuronectes americanus*), windowpane flounder (*Scopthalmus aquosus*) and other invertebrate species.

Resource Benefits: Properly constructed and appropriately located artificial reefs can: 1) enhance or replace injured fish habitat; 2) facilitate access and utilization by recreational and commercial fishermen to quality fishing grounds; 3) provide benefits to anglers and the economies of shore communities; and 4) increase total biomass within a given non-contaminated area.

Environmental Impacts: Minimum short-term negative impacts would be expected during the construction of the reef. Care should be taken to control placement of the reef materials in the designated location. The assessment of reef locations would be an initial step to locate an appropriate location to maximize benefits to marine resources and minimize impacts of the reef.

Requested Funding: $781,041.50

Estimated Match: $0

Rationale for Non-preference: This proposal received a lower ranking using the specified NBHTC evaluation criteria than the other preferred proposals. Insufficient funds are available for the lower ranked projects.

4.3.4 Living resources

Living resources are fish and wildlife resources that have been impacted by the PCB contamination. Sections 3.3.2 through 3.3.8 of the RP/EIS describe the living resources of the New Bedford Harbor Environment, while Section 3.5.3.1 of the RP/EIS describes the living resources that were injured.

4.3.4.1 No-action Alternative: No Living Resources Restoration or Enhancement

Under the no-action alternative, the NBHTC would not undertake any further actions to restore or enhance injured fish, shellfish, wildlife or other living resources within the New Bedford Harbor Environment beyond those actions already implemented under Round I, II and III. As noted above and in Chapter 3, this would result in an extended time period of natural recovery, since it is expected to be many years following the clean-up before PCB concentrations reach acceptable levels in the waters, wetlands, sediments and biota of the New Bedford Harbor Estuary. During this period the living resources of the

Harbor would continue to be affected by the contamination. PCBs continue to disperse, and in some cases bioaccumulate or biomagnify, as they migrate throughout the food web. Cumulative or intergenerational impacts may result. Moreover, the recovery of species and populations from PCBs in the Harbor may be depressed or retarded by additional adverse impacts, such as other contaminants and habitat loss, particularly in the urbanized, highly degraded Inner Harbor and Upper Estuary.

The no-action alternative is rejected. The NBHTC is responsible for the restoration of natural resources that have been injured, destroyed or lost and believes it is important to begin and to accelerate the recovery from that injury by implementing restoration activities to benefit living resources. The restoration activities will improve the health of the living resources and the marine and coastal environment.

4.3.4.2. Preferred Alternatives

The living resources that use or reside in the Inner Harbor and Upper Estuary have been directly exposed to high levels of PCBs and thus are the resources most severely affected by PCB contamination in New Bedford Harbor. As discussed in Chapter 3 of the RP/EIS, these species are consumed by other species--potentially including humans--within and outside the Harbor Environment. Contaminants are thereby transported throughout the ecosystem and beyond. The preferred alternative therefore focuses on improving the condition of the living resources that live, feed, breed in, or otherwise use the more severely affected areas of the Harbor Environment, in an effort to improve the health of these resources and thereby enhance and accelerate ecosystem recovery.

Potential approaches to living resource restoration in the New Bedford Harbor Environment include habitat restoration or enhancement; enhancement of spawning success through direct (e.g., stocking or transplanting) or indirect (e.g., spawning habitat restoration) means; or direct augmentation or transplantation of stocks to improve populations, resource survival, or opportunities for human use.

The preferred alternative--living resource restoration in New Bedford Harbor--would provide ecological benefits throughout the Harbor Environment in the form of increased species diversity and abundance. Broad economic benefits could also result, through increased commercial and recreational harvest of fish and shellfish.

There were no Round IV preferred alternatives for the living resources restoration priority.

4.3.4.3. Non-preferred alternatives

4.3.4.3.1. Regional Shellfish Restoration

Proposed Action: The proposed project would purchase seed quahog, bay scallop and oyster and plant the seed in low densities into selected areas. In addition the proposed

project would purchase clean shellfish stock and place the stock in designated family permit program harvest areas. The proposed project would also conduct a contaminated shellfish relay where juvenile and adult shellfish are harvested from "Restricted" areas (as designated by MDMF) and placed in open waters where they are allowed to depurate (cleanse through filter feeding) for a period from 90 days to a year before being harvested. Enforcement of the shellfish harvest would be augmented using State law enforcement special details and the hiring of local law enforcement. The proposed project would also include predator control practices to increase the effectiveness of the seed program.

Location: New Bedford Inner and Outer Harbor, Buzzards Bay

Resource Injury addressed: Quahogs, bay scallops and softshell clams were identified as species of concern for PCB contamination (EPA 1990). All have shown some level of PCB contamination though the actual amounts vary by species and location. Fishing for all three species has been prohibited in the Inner Harbor and in some areas of the Outer Harbor because of closures for fecal coliform and PCB contamination.

Resource Benefits: The reintroduction of shellfish species to larger areas of the Harbor will increase the biodiversity of the Harbor. Increased numbers of shellfish seed and adults will benefit other species in the food chain and there would be potential water quality benefits due to the filter feeding of the shellfish. Additional benefits are derived from the recreational and commercial fishery for adult shellfish occurring in specified areas open for harvest off of Dartmouth, Fairhaven and New Bedford.

Environmental Impacts: Direct physical impacts can occur during shellfish harvest through the use of shellfish hydraulic power dredges and rakes or tongs for hand digging. Such impacts are expected to be minimal but would be recurring. The effects of the gear would be localized and the bottom conditions are such that sites return to pre-disturbance conditions relatively quickly. Care must be taken to ensure that seeded shellfish are allowed to grow to maturity before being disturbed by harvest activities and that there is no spread of shellfish disease or contamination.

Requested Funding: $716,034

Estimated Match: $0

Rationale for Non-preference: This proposal received a lower ranking using the specified NBHTC evaluation criteria than the other preferred proposals. Insufficient funds are available for the low ranked projects.

4.3.4.3.2. Lobster Stock Replenishment in New Bedford

Proposed Action: The proposed project would replenish lobster stock in New Bedford by releasing cultivated juvenile lobsters and then determining if the replenishment is effective. Lobster would be cultivated at the School of Marine Science and Technology

(University of Massachusetts at Dartmouth) and the Marine Biological Laboratory in Woods Hole. The proposed project would determine appropriate release sites and densities, cultivate a large number of juvenile lobsters (Stage V), and release the juveniles onto prepared habitats. Following release the project would characterize the genotype of lobster parents and their progeny, monitor the release sites for abundance and determine the proportion of wild versus cultivated juveniles. The proposed area to be restored is between 500 – 1000 m^2 and the lobsters would be expected to spread over a larger area.

Location: New Bedford Inner and Outer Harbor, Buzzards Bay

Resource Injury addressed: Sampling determined that there were elevated PCB levels in lobster (*Homarus americanus*) resulting in a Massachusetts Department of Public Health determination in 1979 (MADPH 1979) restricting seafood consumption in all three New Bedford Harbor and Upper Buzzards Bay closure areas. Lobster was then identified as one the 28 species of concern for PCB contamination (EPA 1990). MADMF and MADEP have been conducting monitoring of seafood in these areas since 2002. In 2009, the agencies released their results for seafood harvested in 2007 (MADEP/MADMF 2009) including lobster. This report indicates that monitoring of PCB levels since the mid 1980s indicates that current levels are significantly decreased from the levels found in the 1980s. The levels are still higher than the site-specific goal of 0.02 ppm. For lobster, the monitoring found levels averaging 1.82 kg/mg in Area I, 1.70 mg/kg in Area II and 1.11 mg/kg in Area III.

Resource Benefits: The application identifies declining lobster stocks in some inshore Massachusetts areas as the issue to be addressed. The cause for the decline in these localized areas is unknown but the applicant suggests that it could be from a combination of causes including increasing water temperatures, too few adults for spawning, increasing incidence of shell disease, sedimentation, pollution or that hatched larvae are unable to settle or survive their first year. The project would address the lobster decline by replenishing the lobster stocks in Outer New Bedford Harbor with a goal of providing clean, healthy food for humans and other marine organisms. The stock enhancement would be conducted in a sustainable and responsible manner providing support to the marine food chain.

Environmental Impacts: No environmental impacts would be anticipated for the project. The raising of lobster would be conducted in controlled conditions including the treatment of any resulting effluent from the facility. Before lobster could be released in the wild, they would need to be checked for disease so as to prevent the spread of disease in the wild population. The New Bedford Harbor lobster closures remain in place and no released lobsters could be harvested from areas I, II, and III.

Requested Funding: $613,714

Estimated Match: $29,371

Rationale for Non-preference: This proposal received a lower ranking using the specified NBHTC evaluation criteria than the other preferred proposals. Insufficient funds are available for the low ranked projects.

4.3.5 Endangered Species

Endangered species are those recognized by statute and/or regulation as requiring special attention because of their rarity. In the broadest sense, and as used in this EA, endangered species (also known as "listed species") include those designated as "endangered" by the federal government or the Commonwealth, as well as species that are recognized as rare or vulnerable but not in imminent danger of extinction. These lesser designations include "threatened" status at the federal and Commonwealth level and "of special concern" at the Commonwealth level only. This EA gives special consideration to listed species in order to avoid adverse impacts on them and, of equal importance, to increase the likelihood of survival and success of listed species in the New Bedford Harbor Environment.

In the New Bedford Harbor Environment, the listed species most affected by PCB contamination are common and roseate terns (*Sterna* spp.), which reside in Buzzards Bay from May through September, nesting on certain islands. Common terns are listed by the Commonwealth as "species of special concern" while roseates are listed by both the Commonwealth and the federal government as "endangered." Terns feed in the Harbor Estuary and, as described in Chapter 3 of the RP/EIS, ingest PCBs, with subsequent documented lethal and reproductive effects. Section 3.3.8 of the RP/EIS describes other listed species known to inhabit the Harbor Environment, but since PCB impacts have not been documented for any of these, the preferred alternative for near-term endangered species restoration in New Bedford Harbor pertains to common and roseate terns.

4.3.5.1 No-action Alternative: No Endangered Species Restoration

Pursuant to the no-action alternative, the Trustee Council would provide no further restoration of endangered species in the New Bedford Harbor Environment. This approach would rely on environmental improvements resulting from remediation efforts to reduce the threat posed by the contamination to common and roseate terns. As PCB levels decline in the Harbor, so should impacts on the terns that feed there. The no-action alternative would also rely on the tern restoration and management conducted under Rounds I, II and III which has resulted in an increase of common terns (3,824 pairs in 1999 to 6904.5 pairs in 2009) but mixed results for roseate terns (1,778 pairs in 1999, an increase to 2,118 pairs in 2000 and 1,339 pairs in 2009). (MDFW 2009)

At best, this scenario could lead to some further recovery of tern populations in Buzzards Bay. However, since the reduced tern populations are stressed by habitat loss and degradation, such recovery, if it was still to occur, would take many years. Moreover, in the context of continuing loss of quality nesting habitat, it is possible that

tern populations in Buzzards Bay would never recover from the effects of PCB contamination in New Bedford Harbor, and that roseate terns, in particular, would begin to decline again.

The no-action alternative is rejected. The NBHTC is responsible for the restoration of natural resources that have been injured, destroyed or lost and believes it is important to begin and accelerate the recovery from that injury by implementing restoration activities to benefit endangered species. Until the population of roseate terns has recovered to historic numbers, restoration activities should be conducted to benefit this endangered species.

4.3.5.2 Preferred Alternative

The preferred alternative is to continue to restore and enhance nesting habitat for the listed species most severely affected by PCB contamination in New Bedford Harbor--common and roseate terns. To ensure success, the process would continue for a number of years, as the Harbor is cleaned up and an uncontaminated food supply once again becomes available. Monitoring would be undertaken to measure the success of the restoration and to ensure that PCBs remaining in the Harbor Environment do not undermine the effectiveness of the proposed action.

The preferred alternative is expected to substantially enhance the ability of tern populations to recover from the effects of PCB contamination in New Bedford Harbor. In addition to this ecological benefit, recovery of tern populations holds the potential for economic and aesthetic benefits as well, through bird watching and other passive uses of the Harbor Environment.

Of the restoration options identified as preferred alternatives by the NBHTC, this is one that would require significant action outside of the designated boundaries of the Harbor Environment, although the benefits are expected in the Harbor Environment since the birds are likely to travel to this area to feed. Terns are a mobile resource of the Harbor. The terns were injured by PCBs in the Harbor Environment, and are threatened by habitat loss as well. The Council has determined that the most effective way to restore this injured Harbor resource is through restoration of nesting habitat that, of necessity, would take place outside of the designated Harbor Environment, on the islands of Buzzards Bay.

4.3.5.2.1. Restoration and Management of Tern Populations in Buzzards Bay

Project Description

Proposed Action: The proposal is to continue for an additional three years the tern restoration and stabilization efforts previously funded by the Trustee Council at three island nesting locations in Buzzards Bay. The proposed project would strive to stabilize nesting populations at Bird Island, Marion and Ram Island, Mattapoisett, restore habitat

at Ram Island, and continue management efforts to manage and restore terns at Penikese Island, Gosnold.

Specifically the project would:

1. Restore and manage tern colonies at Bird, Ram, and Penikese Islands to enhance abundance and productivity of Common and Roseate Terns. The applicant would install signs, distribute educational pamphlets, and greet visitors at the nesting colonies to advise visitors of the birds' protected status, their sensitivity to disturbance, and project history and goals. A website would be developed about the project to increase public understanding of tern restoration efforts. Protective fencing would be erected around a portion of the Bird Island colony. The applicant would harvest vegetation and install nest boxes around the islands to enhance tern nesting habitat. There would be a daily presence on the islands during the nesting season to deter predators and competitors, and to detect and respond to threats to the terns.

2. Conduct a program of scientific monitoring to measure population abundance, distribution, productivity and the level of ongoing exposure to PCBs. Monitoring would be conducted throughout the nesting season each year to measure progress in enhancing reproduction and numbers. A census of nesting terns would be conducted for each island. The applicant will monitor nests to assess productivity (hatching and fledging success). Information on survival and other demographic parameters will be collected through trapping and resighting marked adults and banding chicks.

3. Restore nesting habitat on the islands. The applicant proposes to implement a program of prescribed burns and herbicide treatment over approximately 70 acres to remove invasive plant species on portions of Penikese Island. These targeted plant species include native and non-native blackberry species (*Rubus sp*.), Japanese honeysuckle (*Lonicera japonica*), Asiatic bittersweet (*Celastrus orbiculatus*), poison ivy (*Toxicodendrum radicans*) and beach rose (Rosa rugosa). This would result in increased nesting locations on the island. The applicant would conduct the burns under a prescribed burn plan already permitted by the MDEP.

Location: Bird Island, Marion, MA (N 41° 40' 09", W 70° 43' 01"); Ram Island, Mattapoisett, MA (N 41° 37' 05", W 70° 48' 15"); and Penikese Island, Gosnold, MA (N 41° 27' 08", W 70° 55' 07"). All three sites are in Buzzards Bay but outside of the NBHE. Bird Island is owned by the Town of Marion; the latter two sites are owned by the Massachusetts Division of Fisheries & Wildlife (MDFW).

Timeframe: 3 years; field seasons mainly April through August of each year.

Affected Resources Addressed: Common and roseate terns.

Rationale for Adoption

Nexus to PCB Injury: Scientific evidence developed for the litigation in this case indicated that terns were poisoned by PCBs as a result of feeding on fish within the New Bedford Harbor Environment. The Trustees argued in 1991 that terns were natural resources of New Bedford Harbor Environment and had been damaged by PCBs from New Bedford Harbor. Settlement of the case and funding for restoration was based in part on this evidence. This project will help restore the tern population.

Benefits to Resources: Populations of both common and roseate terns would be protected and enhanced leading to increased numbers and stabilization. By continuing the previously implemented restoration efforts the applicant expects gradual improvement such that 8,000 pairs (combined species) would be expected by 2012. Such progress is important to restoring the populations to historic levels of 15,000 pairs.

Benefits to Community: The restoration would benefit the community at large both aesthetically and economically. Restoration of terns as a functional part of the New Bedford Harbor Environment will contribute to the public's enjoyment of the Harbor Environment by increasing species richness and abundance. Recreational and commercial fishermen would benefit directly since terns are an important aid in locating schools of fish. Economic benefits may result from increased wildlife watching activities in southeastern Massachusetts including boat tours to view whales and seabirds.

Technical Feasibility

Achievability: The overall goal of this project is attainable. Portions of this project have been underway through Trustee Council funding since 1990. Partial success has already been achieved, in particular successful partial restoration of the Ram Island colony and successful nesting of terns at both Bird and Ram Islands. In addition, Penikese Island has seen a significant increase from 140 pairs in 1975 to over 1100 pairs in 2009. This proposal is for the continuation and extension of an already successful technique.

The speed with which the goal is ultimately achieved is likely to be dependent on the extent to which specific, enumerated underlying objectives are met and future actions completed. This will entail: 1) continued monitoring and management of sites already restored; 2) habitat restoration of the nesting sites at Penikese Island; and 3) the restoration of eroded habitat at both Bird and Ram Islands.

Reliability of Techniques: This proposed project would employ proven techniques with which the managing agencies have had experience, and does not involve untried or speculative ideas. Management programs to protect terneries and to enhance tern productivity have been in place in Massachusetts at different sites since the 1920s. Restoration of former terneries using proven gull control methodologies has been accomplished successfully at several sites in New England, including Ram Island, Mattapoisett. Toxicological testing of tern eggs and young to monitor post-remediation background levels of PCBs in the tern population would employ standard chemical testing methodologies.

Impact of Remediation: Remediation activities involving the removal of PCBs would not be expected to have any material adverse effect on the activities envisioned in this project.

Monitoring: Monitoring of overall project progress would be accomplished by continuous oversight provided by the MDFW and the USFWS. Ultimate success in restoration of terns in the Buzzards Bay area and in the New Bedford Harbor Environment would be measured by biological monitoring systems, some of which are already in place, to assess tern abundance, distribution and productivity in the entire area.

This proposed project could also be expected to benefit from technical assistance provided by the Roseate Tern (Northeastern Population) Recovery Team.

Requested Funding: $809,976.96

Estimated Match: $176,254.44

Impacts on the Environment

Biological: Beneficial biological effects are anticipated for the tern species discussed above through increased protection and creation of favorable nesting habitat.

Impacts on injured resources: No adverse impact effect is expected to occur to injured resources. Positive effects would be anticipated for terns through increasing tern population size, nest site availability and health.

Impacts on other resources/habitats:

This activity may require various state and federal permits and may require documentation of the impacts of the action.

Vegetation: The application includes prescribed burns and herbicide application on a 70 acre (28.3 ha) area on the Tubbs portion of Penikese Island. The goal is to reduce the cover of invasive shrubs and grasses, reduce thatch and create native upland habitat more suitable for nesting terns. Impacts would occur to native and non-native vegetation targeted for removal through the burns and herbicide application. These targeted plants include native and non-native blackberry species, Japanese honeysuckle, Asiatic bittersweet, poison ivy and beach rose. Shrubs would be treated with the herbicide. The application describes that rather than completely eliminating non-native and invasive species, the goal is to control these plants and maintain conditions that will allow the native species to establish in these areas. Supplemental seeding and planting of native plants would occur on 8-10% of the island.

Wildlife: Active management and monitoring of existing terneries may involve the occasional taking of predators. The applicant will focus on non-lethal methods of

deterring predators and competitors from the sites. Restoration of the tern nesting area on the "Tubbs Island" portion of Penikese Island involved discouraging gull nesting on Tubbs Island. Techniques used to date for discouraging gull use have included auditory and visual harassment, the use of herding dogs and the destruction of gull and goose nests. If predators such as gulls or mink are documented to kill terns or their eggs, individual predators may be removed under state and federal permits. Such predators can have a major impact to a colony either through taking adults, juveniles or eggs, or by causing large numbers of terns to desert the colony.

Prescribed burns on Penikese Island may have localized impacts to wildlife. Burns are a naturally occurring phenomenon in grassland areas. No impacts to Common or Roseate terns are expected because these areas currently do not have suitable nesting habitat. Mammals and birds would be expected to leave the area of the burn. Insects would either leave the area or burrow into the soil until the burn passes. A more favorable assemblage of native grasses would be expected to revegetate the areas after the burn which would return benefits to wildlife.

The American burying beetle (*Nicrophorus americanis*) was reintroduced to Penikese Island from 1990-1994. It is believed to have become extirpated there by 2003. (Amaral M. 2007)

Fish & shellfish: No adverse impacts on fish would be expected to result from this project. The prescribed burning of non-native vegetation is not expected to cause a negative effect on fish and shellfish species. The herbicide application would be done under strict controls to prevent the spread of herbicide to areas where fish and shellfish are located.

Physical: The removal of non-native vegetation will have minimal impact to other physical resources provided that the prescribed burns and herbicide application are done under strict procedures with diligent oversight of the activities.

Both Bird and Penikese Islands have historic resources present. No negative impacts on cultural resources (archaeological or historical) or on land use patterns at the three ternery sites are foreseen. Bird Island Light, no longer in service, is an historical resource of interest, but would not be affected by the project activities. Penikese Island contains assets of considerable historic interest. Louis Agassiz established the John Anderson School of Natural History on the island and after the school closed, the island served as the site of a leper colony. The remaining historic aspects would not be affected. The MHC had previously determined that the tern project would have no adverse effect or would be unlikely to have an effect on significant historic or archaeological properties. A Project Notification Form (PNF) was sent to the SHPO for the proposed project for Penikese Island. The MHC determined that "the proposed project will have no adverse effect" on significant historic or archaeological properties." (MHC, 2009b)

Human: No negative impacts are expected. Signs have been in place for years warning boaters to stay off the islands so as to prevent impacts to the terns, nests, eggs and young.

Preliminary Determination: The Council preliminarily approved the proposal for possible implementation pending consideration of public comments received.

Preliminary Funding: $809,976.96

Final Determination: After consideration of the public comments received on this proposed project, the Trustee Council has decided to provide funding for this project, but at a reduced level. A revised scope of work has been submitted which reflects this lower funding level for those aspects of the project that restore, replace or acquire the equivalent of an injured natural resource.

Final Funding: $485,440

Non- Council Match: $251,585.96

4.3.6 Proposals Falling Outside the Scope of Restoration

The Trustee Council received several proposals to conduct projects that it believes are not sufficiently related to natural resource restoration. While many of these proposals addressed specific resource injuries, the methods proposed were more related to cleanup activities and could be implemented as part of the Harbor remediation. These types of remedial activities are more appropriately the responsibility of other entities such as EPA or a state agency and could be considered by these agencies for possible implementation. Referring back to Section 1.1, the natural resource damage funds used by the natural resource trustees are separate from clean-up costs and must be used to “restore, replace, or acquire the equivalent of” the natural resources that have been injured.

The Trustee Council encourages these applicants to pursue funding through other means.

4.3.6.1 BioHaven® - New Bedford Harbor

Study Description

Proposed Action: The proposal would install and maintain 80,000 square feet (7432.2 m^2 of BioHaven® Floating Wetlands in New Bedford Harbor as a means of restoring wildlife habitat and improving water quality. BioHavens® are man-made floating islands that provide optimized habitat for growing microbial and plant species. They are engineered to support larger populations of those organisms by expanding the available underwater surface area. The proposal would anchor 24 floating islands in

Apponagansett Bay, Dartmouth. Each island would be 16 feet (4.9 m) wide and 300 feet (91.4 m) long and made of recycled materials.

Location: N 41º35' 37" W 70º57'41" in Apponagansett Bay, Dartmouth, MA

Resource Injury Addressed: Salt marsh and the natural resources supported by a salt marsh, including plants, mammals, birds, fish and shellfish that have been negatively affected by the PCB contamination of the New Bedford harbor Environment. Marshes on the eastern side of the Harbor north of Coggeshall Street have high levels of PCB contamination. Marine and estuarine resources are exposed to PCBs each time they use these marshes resulting in detrimental health effects. EPA's ROD (EPA 1998) specifies dredging of salt marsh where PCB levels exceed 50 ppm. Despite the progress made in removing contaminated sediments around the harbor, it will still be a number of years before these areas will be dredged and restored. Even then some salt marsh will remain relatively contaminated (0-50 ppm). Restoration of marsh habitat that is in the vicinity of New Bedford Harbor but is not impacted by contaminants will help support species of fish, shellfish and other natural resources dependent on marshes that have been injured within the New Bedford Harbor Environment.

Resource Benefits: The floating islands would be installed to provide a means of introducing and restoring wildlife habitat. The project would replace impacted marsh habitat within New Bedford Harbor with created marsh on floating islands in Apponagansett Bay, Dartmouth. Restoration of marsh habitat that is in the vicinity of New Bedford Harbor but is not impacted by contaminants will help support species of fish, shellfish and other natural resources dependent on marshes that have been injured within the New Bedford Harbor Environment. The application describes how the islands will remove contaminants from the harbor though PCB contamination is not an issue in Apponagansett Bay. The islands are designed to mimic the same functions and principles of a natural wetland. The project is described as providing optimized habitat for growing microbial and plant species that would improve water quality and, provide a food source and shelter.

Environmental Impacts: Proper siting of the floating islands would be critical to minimize potential impacts resulting from shading of the river/ocean bottom and associated subaquatic vegetation. Other potential impacts could result from the anchoring system. Typical impacts involve anchor chain scour when there is surface movement of the boat (or island) and the chain scrapes across the bottom. This could occur during incoming/outgoing tides and low tide. Alternative anchoring systems have been developed to minimize these impacts. Anchors can also be dragged during storm events. How the islands behave during storm events would need to be analyzed to make sure that there would be no impacts from the islands breaking up or breaking free from their anchor moorings. All these issues and potentially more (i.e. impacts to navigation and recreational boating, pre-emption of bottom) would need to be addressed during the permit application and review process.

Requested Funding: $2,000,000

Estimated Non-Council Match: $1,115,000

4.3.6.2 GEC Self-sustaining Comprehensive Ecological Model (GEC-SCEM) for Restoring the Acushnet River Habitat and Sustaining Restoration Efforts through Establishment of "Green" Recycling Profit Centers

Study Description

Proposed Action: The project goal is to restore the habitat so that it is self-sustaining and functions in a manner similar to pre-disturbed condition by:

1. employing and training workers to conduct water and soil sampling, restoration and sustaining the recycling process;
2. restoring soil and water using Huma-Clean process in three phases (three areas of New Bedford harbor working north to south) followed by the re-introduction and nurturing of natural species;
3. restoring natural habitat through building community-wide participation by hosting seminars; and
4. establishing profit centers for recycling biowaste materials from the river.

Location: New Bedford Harbor from the mouth of the Acushnet River south to the hurricane barrier.

Resource Injury Addressed: The proposed project would address resource injury occurring through contamination of both soil and water. PCBs are present in the water column where they can be a source of contamination to fish and wildlife species that use, live or swim in the water column. Demersal fish are subject to contaminant exposure through the water column as well as bottom sediments.

Resource Benefits: The proposed project seeks to restore the ecological balance of water and soil in the Acushnet River, lower water temperatures, reduce sedimentation delivered to the river, lower fecal coliform levels, increase spawning availability and increase available habitat for fish, plant life and wildlife.

Environmental Impacts: The proposed project involves applying a humus-based microbial product to the water and allowing it to settle to the river bottom and eat the organic material of the bottom. The application describes that the microbes would break down the organic matter and neutralize many inorganic chemicals, trace metals and petroleum-based products. The microbes have a lifespan of 14 to 24 days. Acids would need to be added to the material to reduce the concentrations of PCBs. Some concerns about this approach have been voiced in the past when the EPA was looking at remediation alternatives. Those concerns focused on the interim chemical compounds resulting from the breakdown of the contaminants present in the sediments.

Requested Funding: $1,689,750

Estimated Non-Council Match: $1,737,375

4.3.6.3 Low-Impact Wetland Remediation

Study Description

Proposed Action: The proposed project would conduct a field demonstration of approximately one acre (.40 ha) of low impact, *in-situ* wetland remediation techniques in order to sequester residual contaminants in wetlands. It would involve the application of an activated carbon sequestration agent (Aquablok technology) to reduce PCB bioavailability in salt marsh areas of upper New Bedford Harbor. The tasks involve site selection, developing a treatment design plan, permitting, baseline monitoring, treatment application and post-monitoring.

Location: The proposed project would initially evaluate approximately 24 potential salt marsh sites identified in the 2003 Draft New Bedford Harbor Environment Wetlands Restoration Plan (WRP 2002) throughout the NBHE for suitability. It is expected that three potential sites would result from the initial evaluation.

Resource Injury Addressed: Salt marsh and the natural resources supported by a salt marsh, including plants, mammals, birds, fish and shellfish that have been negatively affected by the PCB contamination of the New Bedford harbor Environment.

Marshes on the eastern side of the Harbor north of Coggeshall Street have high levels of PCB contamination. Marine and estuarine resources are exposed to PCBs each time they use these marshes resulting in detrimental health effects. EPA's ROD (EPA 1998) specifies dredging of salt marsh where PCB levels exceed 50 ppm. Despite the progress made in removing contaminated sediments around the harbor, it will still be a number of years before these areas will be dredged and restored. Even then some salt marsh will remain relatively contaminated (0-50 ppm). Restoration of marsh habitat that is in the vicinity of New Bedford Harbor but is not impacted by contaminants will help support species of fish, shellfish and other natural resources dependent on marshes that have been injured within the New Bedford Harbor Environment.

Resource Benefits: Use of a low-impact remediation technique would result in less impact on wetlands than methods that are typically used. Removal of contaminants in wetlands usually involves excavation of the soils and associated plants, followed by removal and treatment offsite, and then disposal. Another alternative used to lessen this impact is to leave areas of contaminated sediments and plants in place which would also allow the contamination to remain in place. The applicant maintains that the proposed technique is less destructive and expensive than the excavation method of remediation.

Resource benefits would be derived through the reduction of PCB bioavailability in the wetlands.

Environmental Impacts: Minimal environmental impacts are expected from the proposed marsh restoration techniques. The sequestration agent is applied to the marsh by spraying and no removal is contemplated. Monitoring would occur prior to application and at specific times following application. The impacts would be considerably less than the usual alternative of excavation to removal PCB-laden sediments within a marsh.

Requested Funding: $1,001,783

Estimated Non-Council Match: $0

4.3.6.4 Restoration of Top Food Chain Species through the Reduction of PCB Availability by a Novel Seaweed Bioremediation System

Study Description

Proposed Action: The overall goal of the proposed project is to restore and protect natural resources by reducing their exposure to, and bioconcentration of, PCBs. This would be accomplished by reducing the concentration of PCBs taken up by phytoplankton. The applicant has found that the seaweed bloom comprised of *Ulva* take up and sequesters PCBs. The proposed project would be expected to remove an estimated 50 tons (45.2 metric tons) of *Ulva* in a section of the Upper Harbor with a likely PCB concentration of between 10 and 20 ppm. The collected *Ulva* would then be transported offsite for disposal. The applicant would conduct experiments with replanting *Ulva* in areas it was removed from. In the second year, the applicant would examine different harvesting and replanting methods.

Location: The proposed project would be conducted at various locations in the Upper Estuary portion of the NBHE in the area between Coggeshall Street to the south and Wood Street to the north.

Resource Injury Addressed: The proposed project addresses the impacts to higher trophic organisms reducing their exposure to PCBs and the bioconcentration of PCBs. Several of the fish, shellfish and wildlife species were determined to have been injured by the release of PCBs. This project proposes to reduce PCB levels in the harbor by the removal of *Ulva*, which the applicant has determined takes in and sequesters PCBs.

Resource Benefits: The proposed project is designed to reduce PCB concentrations in the harbor which would provide benefits to shellfish, finfish and bird species that are resident or transient feeders within New Bedford Harbor and the Upper Buzzzards Bay. By design, the project would supplement the remediation that is ongoing in the Harbor.

Environmental Impacts: Harvest would have to be conducted under very controlled conditions to prevent introducing contamination to other parts of the harbor. Care would need to be taken not to disturb contaminated sediments as the *Ulva* is harvested and transported to shore. An environmental services company would harvest the *Ulva* but the details on the harvest methodology were not provided. The applicant indicates that further consultation with, and approval by the EPA would be needed.

Requested Funding: $438,921

Estimated Non-Council Match: $95,368

4.4 Cumulative Effects of the Preferred Alternatives

The Council on Environmental Quality (CEQ) defines cumulative effects as, "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions," (CEQ, 1997). A cumulative effects analysis must take into consideration both direct and indirect effects of the proposed action as well as the action's spatial and temporal effects when considered with other past, present or future actions.

A description of the affected environment, which is incorporated by reference, (summarized below) can be found in Chapter 3 of the RP/EIS (NBHTC, 1998) from which this EA is derived. New Bedford Harbor is an estuary at the mouth of the Acushnet River on Buzzards Bay. Within the Harbor Environment are freshwater and upland habitats, tidal marsh, tidal flats and soft bottoms, beaches and rocky shores, subaquatic vegetation and open water habitat. It is home to approximately 150,000 people living and working in the four communities along the river and estuary. The original inhabitants of the area were members of the Wampanoag Tribe until European settlers arrived. After settlement in the late 17th/ early 18th centuries the area was initially used for farming and timber harvest along with agriculture and grazing. Whaling was an early industry and support services to the whaling industry grew. This was followed by milling and manufacturing with use of the river in these operations. As these industries developed, more people settled in the area with a need for housing and support services. Ship repair and construction developed along the harbor. In the early 1900s there was significant growth of the textile industry followed by metal works and tanneries. This period also saw the growth of the fishing industry replacing the former whaling industry.

Accompanying this development and growth were impacts to the Harbor Environment. Land cleared for farming increased erosion into the river. Tidal marshes were filled for commercial development. As sediment entered the river and harbor, dredging was required to keep the river open for vessel traffic. Wharves and piers were built along and into the harbor. Mill operations required the use of water and dams were constructed impeding the flow of the river and presenting a barrier to fish passage. As the human population grew, bridges were built to allow travel across the harbor and

river. These bridges created an impact by narrowing the river and further restricting river flow. Accompanying the population and industrial growth were increases in discharges of both sewage and industrial waste. Both commercial and residential development is still occurring along the harbor and river and the river is still being dredged to allow vessels to enter into and travel within the port.

One of the major impacts to the area was the release of PCBs and other contaminants into the New Bedford Harbor Environment from two manufacturing facilities over a period spanning four decades. Further transport of PCB-laden sediments subsequently occurred through tidal movement as well as the wastewater treatment system causing the contamination to spread within the defined Harbor Environment. CERCLA requires that the preferred alternatives restore, replace or acquire the equivalent of those natural resources that were injured or lost due to the releases. These alternatives are designed to provide a positive benefit for the injured natural resources by enhancing the habitat, correcting previous problems or protecting and preserving the natural resource or habitat. The preferred alternatives from all of the Trustee Council's funding rounds (Rounds I, II, III and IV) are intended to address the impacts caused by this release of PCBs and other contaminants and the associated injury to natural resources.

Dredging is occurring in the Harbor for two reasons: 1) reduce the contaminant load; and 2) allow ships to travel safely within the harbor. As part of the CERCLA remedy, EPA is overseeing the dredging and removal of contaminated sediments. The goal of the dredging is to reduce harbor sediment contamination to a level that is safe for the intended uses and users (i.e. human or natural resources) of that area. The combination of this dredge activity and the preferred alternatives of Round IV as well as the actions from Rounds I, II and III are designed to increase the overall health of the Harbor Environment. Navigation dredging is occurring because of the sediment deposition occurring from the river and the shoaling of the harbor. This dredging will also remove some contamination since there is some lower level contamination in this sediment. Clean sediment from this dredging is being used to cap other contaminated areas of the Harbor. Contaminated sediment from the dredging is being placed in containment cells dug into the Harbor bottom to be covered by clean material.

Future activities expected to be occurring in the harbor are addressed in Section 3.2 and involve the continuation of the dredging activities described in the previous paragraph, the rehabilitation of existing bulkheads and the construction of new bulkheads, the development of infrastructure to support the fishing industry and commercial shipping interests and the construction of confined disposal or confined aquatic disposal facilities for the storage of dredge material

While the preferred alternatives must address the injury from the PCB contamination, the alternatives also address past impacts as well as prevent future impacts. One of the land acquisition projects (**LaPalme Riverside Farm Land Acquisition**) would permanently protect and preserve up to 46.6 acres (18.9 ha) of upland along the river and harbor from future development and associated impacts. This project would contribute to the amount of protected open space within the four towns (approximately

11,867 acres) as well as the Buzzards Bay Watershed (over 50,000 acres) (BBP, 2005). This provides continuing benefits to both humans and wildlife and the resulting impacts of increased human use are considerably less than if commercial or residential development were to occur at these sites. The choice of sites also provides a buffer to the bay, harbor and river that they border, providing further protection to the marine and freshwater organisms that live in and use these areas.

The **Acushnet River Upland Riparian Restoration Project** is a combination of land acquisition and protection, the construction of a walkway and stabilization of the bank along the eastern bank of the Acushnet River in the Upper Estuary portion of the site. This project would involve land 25 feet landward from the top of the coastal bank extending for 11,600 feet (1077.7 m) along the river. The land would be acquired and would provide access to the river in an area where there was little or none due to industrial development. More importantly it would provide permanent protection into the future providing further protection of the river and its natural resources. Once acquired, debris, fill and invasive plant removal would occur. There would be grading followed by the construction of a permeable walking path and the planting of native vegetation. The plantings, clean fill, and permeable path would provide natural filtering of surface water before it drains into the river.

The **Palmers Island Sanctuary and Interpretive Trail** would place a conservation restriction and provide access and habitat enhancements on Palmers Island, which is located in the harbor just inside the hurricane barrier at the mouth of the harbor. The goal of the project is to provide permanent protection, increased but controlled access with the development of an interpretive trail, the development of an invasive species plan and a natural resource management plan and implementation of the plans. The island has had a variety of uses though the centuries and permanent protection and enhancement will allow controlled use and appreciation into the future.

The **Restoration and Management of Tern Populations in Buzzards Bay** project addresses the injury to terns caused by the introduction of PCBs into the food chain of the harbor by managing tern nesting islands, discouraging predation and creating usable nesting areas. While addressing the PCB-related injury the project also addresses the decline in tern numbers resulting from an increase in gulls, which take over nesting areas and feed on tern eggs and chicks. As the human population increased, the associated solid waste also increased requiring the creating and use of landfills. Gulls fed on the contents of the landfills and with an easy source of food and little competition, caused the gull population to increase in numbers. This led to competition with terns for nesting locations with the terns being forced out. As landfills close and the gull population numbers drop, efforts are made to move the gulls off historical tern nesting locations since other favorable gull nesting areas exist. The Roseate Tern restoration efforts are guided by the Roseate Tern Recovery Plan-Northeastern Population (USFWS, 1998), which is designed to increase and expand the population throughout the range of the species.

The preferred alternative, **Round Hill Salt Marsh Restoration** project involves restoring a tidal marsh in the Town of Dartmouth. Having completed the feasibility analysis for the project under Round III, the Round IV proposal is for the design, permitting and construction of the marsh restoration project. This project would provide many benefits including shelter, food, flood storage and habitat for a variety of natural resources. Marsh restoration is a focus of both state and federal efforts as well as local communities and organizations. Atlases have been produced documenting the candidate sites for restoration and funds have been provided from a variety of sources for replacement of culverts, tide gates and plantings (BBP 2002, BBP 2004, CCC 2001, MWRP 2002).

The marsh restoration projects provide benefits to the injured natural resources while at the same time addressing impacts caused by previous activities. The need for these projects is typically caused by roads being placed across tidal inlets to marshes and inadequately sized culverts being placed under these roads. In other cases bridges across tidal areas have restricted the flow impacting marshes at the upper reaches of the tidal range. By correcting these problems, years of continuing impacts will be reduced or reversed.

The final proposed project is the **Acushnet Sawmill Ecological Restoration** which would restore an upland property along the Acushnet River which was the former site of a commercial sawmill. The area is characterized by extensive modifications including paving and buildings. The project would remove the man made structures and restore the area to a more natural riverine setting. It would reverse the impacts previously caused and provide varied habitat for wildlife and birds. The project would provide permanent protection of the Acushnet River and reduce harmful runoffs into the river at this location.

None of the planned activities described in Section 3.2 will have a negative effect on these specific proposed projects nor will these restoration projects add to any detrimental impact on the harbor environment. By design, they would be chosen and implemented to address past impacts on the harbor environment and for future enjoyment of both natural resources and human users.

The impacts on the New Bedford Harbor Environment have been occurring for centuries since the settlement of the area. The types and sources of impacts have been similar but differed by degrees as technology advanced and the population grew. The impacts continue, and will continue into the future as development occurs but with associated economic and sociological gains.

By definition, the natural resource restoration preferred alternatives proposed for implementation should provide a net benefit to offset the injury caused by the release of hazardous substances in the Harbor Environment. While CERCLA requires that restoration projects address the specific injury caused by the release of PCBs and other hazardous substances, the preferred alternatives also provide benefits by preventing future impacts through preservation and protection of open space and by correcting

past actions. The minimal impacts caused by the implementation of the preferred alternatives will be more than offset by the benefits to be experienced by the natural resources and the public.

5: Listing of Agencies and Persons Consulted

Federal Agencies

U.S. Department of Commerce
- National Oceanic and Atmospheric Administration
  - National Marine Fisheries Service

U.S. Department of the Interior
- U.S. Fish and Wildlife Service

U.S. Department of Justice

Commonwealth of Massachusetts Agencies

Executive Office of Energy and Environmental Affairs
- Coastal Zone Management
- Department of Environmental Protection
- Department of Fisheries, Wildlife and Environmental Law Enforcement
  - Division of Fisheries & Wildlife
    - Natural Heritage and Endangered Species Program
  - Division of Marine Fisheries

Local and Regional Government Organizations

City of New Bedford
Town of Acushnet
Town of Dartmouth
Town of Fairhaven

New Bedford Harbor Trustee Council

Trustee Representatives:

Lisa Alexander	Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup, Executive Office of Energy and Environmental Affairs
John Catena (Acting)	National Marine Fisheries Service National Oceanic and Atmospheric Administration U.S. Department of Commerce
Marvin Moriarty	U.S. Fish and Wildlife Service, U.S. Department of the Interior

Trustee Delegates:

Rosemary Knox	Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup, Executive Office of Energy and Environmental Affairs
John Catena	National Marine Fisheries Service, Restoration Center
Molly Sperduto	U.S. Fish and Wildlife Service, U.S. Department of the Interior

Staff Support

Steven Block	National Marine Fisheries Service, Restoration Center
John Terrill (Coordinator)	National Marine Fisheries Service, Restoration Center

Legal Advisors

Andrew Cohen	Massachusetts Department of Environmental Protection
Marcia Gittes	U.S. Department of the Interior
Marguerite Matera	National Oceanic and Atmospheric Administration

Technical Advisory Committee

Steve Block	National Marine Fisheries Service, Restoration Center
John Catena	National Marine Fisheries Service, Restoration Center
Joseph Coyne	Massachusetts Department of Environmental Protection
Michael Hickey	Massachusetts Division of Marine Fisheries
John Terrill (Chair)	National Marine Fisheries Service, Restoration Center
Jim Turek	National Marine Fisheries Service, Restoration Center
Veronica Varela	U.S. Fish and Wildlife Service

Technical Advisors

Joseph Costa	Buzzards Bay Project
Paul Craffey	Massachusetts Department of Environmental Protection
Dr. Kenneth Finkelstein	National Ocean Service, Assessment and Restoration Division
David Janik	Massachusetts Coastal Zone Management
Jan Smith	Massachusetts Coastal Zone Management

Public Consulted

Trustee Council Meetings:	November 20, 2008, Days Inn, New Bedford, MA

Public Hearing:	November 23, 2010, Fairfield Inn and Suites, New Bedford, MA

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7: Relationship to Other Laws

As discussed in the RP/EIS, the two major federal laws guiding the restoration of New Bedford Harbor are CERCLA and NEPA. CERCLA provides the basic framework for natural resource damage assessment and restoration, while NEPA sets forth a specific process of impact analysis and public review. However, the Trustees must also comply with other applicable laws, regulations, and policies at the federal, state and local levels. The relevant laws and their applicability with respect to Round IV are discussed below.

Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 USC §1251 et seq.

CWA is the principal law governing pollution control and water quality of the nation's waterways. Section 404 of the law authorizes a permit program for the disposal of dredged or fill material in the nation's waters, administered by the ACOE.

In general, restoration projects which move significant amounts of material into or out of waters or wetlands--for example, hydrologic restoration of salt marshes or the placement of artificial reefs--require Section 404 permits. It is probable that the proposed **Round Hill Salt Marsh Restoration, Acushnet Sawmill Ecological Restoration and Acushnet River Upland Riparian Restoration** projects will be the only New Bedford Harbor Round IV projects requiring this permit. In granting dredge and fill permits the ACOE might require the applicants to undertake mitigation measures such as habitat restoration to compensate for losses resulting from the project.

Under Section 401 of the CWA, restoration projects that entail discharge or fill to wetlands or waters within federal jurisdiction must obtain certification of compliance with state water quality standards. The Massachusetts Department of Environmental Protection implements the Section 401 Water Quality Certification Program through 314 CMR 9.00. In general, restoration projects with minor wetlands impacts (i.e., a project covered by an ACOE Programmatic General Permit) are not required to obtain Section 401 Certification, while projects with potentially large or significant cumulative impacts to critical areas require certification.

Coastal Zone Management Act (CZMA), 16 USC §1451 et seq.

CZMA establishes a policy to preserve, protect, develop and, where possible, restore and enhance the nation's coastal resources. The federal government provides matching grants to states for the realization of these goals through the development and implementation of state coastal zone management programs. Section 1456 of the Act requires direct federal actions in the coastal zone to be consistent, to the maximum extent practicable, with approved state programs. It stipulates that no federal licenses

or permits may be granted without giving the state the opportunity to concur that the project is consistent with the state's coastal policies.

In order to comply with CZMA, the Trustee Council sought and received concurrence of the Commonwealth that the RP/EIS is consistent with the 27 program policies of the Massachusetts Coastal Program. Moreover, specific restoration projects which may be selected in the current restoration round must be consistent with the state program. The Trustees anticipate that continued close cooperation between the Massachusetts Coastal Zone Management Program (MCZM) and the Trustee Council will ensure consistency of future actions.

MCZM determined that the RP/EIS was consistent with the MCZM's enforceable program policies. The Round IV restoration projects preliminarily selected for funding are consistent with the RP/EIS. The determination that the individual Round IV restoration projects are consistent with the state program will be sought at the time of permit application rather than seeking concurrence on the Round IV Environmental Assessment and then again on the individual projects.

Endangered Species Act (ESA), 16 USC §1531 et seq.

ESA establishes a policy that all federal departments and agencies seek to conserve endangered and threatened species and their habitats, and encourages such agencies to utilize their authorities to further these purposes. Under the Act, the Departments of Commerce and Interior publish lists of endangered and threatened species. Section 7 of the Act requires that federal agencies and departments consult with the Departments of Commerce and/or Interior to minimize the effects of federal actions on endangered and threatened species. In the case of New Bedford Harbor, the identification of endangered species as a restoration priority (RP/EIS Section 2.6) means that specific restoration actions can help conserve and recover endangered and threatened species and so further the goals of ESA.

The Trustee Council determined that the preferred restoration activities for Round IV would not have any adverse effects upon threatened or endangered species. The determination was sent to the U.S. Fish and Wildlife Service for its concurrence under Section 7 of the ESA. The USFWS concurred with the determination and concluded the consultation under Section 7 of the ESA. (USFWS 2009) The one preferred project under the USFWS' ESA authority is the **Restoration and Management of Tern Populations in Buzzards Bay** which is expected to provide direct and indirect benefits to federally endangered roseate terns. There was a concern about the prescribed burns on Penikese Island and the potential impact on the American Burying Beetle (*Nicrophorus americanus*) but the USFWS reports that since 2003, the beetle is no longer present on the island. (USFWS 2009)

For the remaining projects, no threatened or endangered species are expected to be present at the site of the activity. This determination has been sent to the national Marine Fisheries Service for the species under their authority. As the individual project plans become finalized, the Council will continue to review and evaluate whether there are any impacts to endangered or threatened species to determine whether or not a Section 7 consultation is required pursuant to the ESA.

National Environmental Policy Act (NEPA), 42 USC §4321 et seq.

NEPA is the basic national charter for protection of the environment. Its purpose is to "encourage productive and enjoyable harmony between man and the environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; and to enrich the understanding of the ecological systems and natural resources important to the Nation." (42 USC §4321) The law requires the government to consider the consequences of major federal actions on human and natural aspects of the environment in order to minimize, where possible, adverse impacts. Equally important, NEPA establishes a process of environmental review and public notification for federal planning and decisionmaking.

The Trustee Council integrated the Restoration Plan with the NEPA EIS process in order to comply with NEPA. The Restoration Plan complied with NEPA by serving as a "programmatic EIS" that assesses impacts of the restoration of natural resources that were injured, or lost due to the release of hazardous substances into the New Bedford Harbor Environment. The Council prepared Environmental Assessments (EA) for Rounds II and III in order to ensure public input to the decision-making process and assist the public to understand the decisions that were made on specific projects. (Several of the projects could have received categorical exclusions but the Council chose to prepare EAs instead.) The Council now seeks public review and comment on the restoration projects proposed for funding under Round IV. At the conclusion of the Council's public review process, the comments received will be incorporated into the EA along with the response to those comments. After reviewing the preferred Round IV restoration projects and the public comments, the Council will render a final decision for which projects will receive funding and the level of funding.

Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) as amended and reauthorized by the Sustainable Fisheries Act (Public Law 104-297) - Essential Fish Habitat

The Magnuson-Stevens Act established a program to promote the protection of essential fish habitat (EFH) in the review of projects conducted under federal permits, licenses, or other authorities that affect or have the potential to affect such habitat. After EFH has been described and identified in fishery management plans by the regional fishery management councils, federal agencies are obligated to consult with the Secretary of Commerce with respect to any action authorized, funded, or undertaken, or

proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any EFH.

From the 1940s through the 1970s electronics manufacturers released polychlorinated biphenyls (PCB) and other hazardous materials contaminating portions of the Acushnet River and Upper Buzzards Bay. The PCB contaminant levels occurring in the bottom sediments of the Acushnet River were among the highest found in a marine estuary leading to New Bedford Harbor's being designated on the Environmental Protection Agency's (EPA) Superfund National Priorities List. The site is also listed by the Massachusetts Department of Environmental Protection as a priority Tier 1 disposal site. To date, the most contaminated sediments (greater than 4000 ppm PCB) have been dredged and disposed of off-site. A large volume of contaminated material still remains within the New Bedford Harbor Superfund Site (over 800,000 cy) which is the subject of the next phase of cleanup.

The New Bedford Harbor natural resource restoration activities occur within a defined area referred to as the New Bedford Harbor Environment based upon the Superfund Site determination. The Trustee Council prepared a RP/EIS in preparation for the implementation of Round I restoration projects and prepared EAs to implement Round II and III restoration projects to address the injuries to natural resources. The EFH requirements were in place for Round II and III and their EAs contained an EFH assessment on which a consultation was based. For Round II, the projects were determined after a solicitation of restoration ideas from the public, academia, and municipal, state and federal government agencies. All project ideas were conceptual, subject to procurement competition and/or development of specific scopes of work. The Round III process was to solicit applications for NOAA grants or cooperative agreements. A proposed scope of work was submitted as part of the application narrative and sufficient information was available on which environmental reviews could be conducted.

As with Round III, the proposed Round IV projects assessed in this EA are also based upon a formal grant solicitation. Sufficient information is available from the project narratives of the applications on which to base an EFH assessment and consultation. Specific scopes of work and potential permitting requirements were presented in the applications. Specific timeframes, locations and funding levels were also presented. The EFH assessment that follows incorporates this information in determining potential impacts to EFH.

For the New Bedford Harbor/Upper Buzzards Bay area, EFH has been designated for one or more life stages for the following species: Atlantic cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*) red hake, (*Urophysis chuss*), winter flounder (*Pleuronectes americanus*), Atlantic sea herring (*Clupea harengus*), bluefish (*Pomatomus saltatrix*), long finned squid (*loligo paelei*), Atlantic mackeral (*Scomber scombrus*), summer flounder (*Paralicthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), surf clam (*Spisula solidissima*), king mackeral

(*Scomberomorus cavalla*), Spanish mackeral (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), little skate *(Leucoraja erinacea*) and winter skate (*Leucoraja ocellata*). These species are managed by the New England, Mid-Atlantic, South Atlantic and Gulf of Mexico Fishery Management Councils under the following fishery management plans (FMP): Northeast Multispecies; Atlantic Bluefish; Atlantic Mackeral, Squid, and Butterfish; Summer Flounder, Scup and Black Sea Bass; Atlantic Surf Clam and Ocean Quahog; and Northeast Skate Complex. In addition, EFH has been designated for sandbar shark (*Charcharinus plumbeus*) and bluefin tuna (*Thunnus thynnus*) which are managed by the NMFS under the FMP for Atlantic Tuna, Swordfish and Sharks.

The following table summarizes EFH for the area:

Species	**Eggs**	**Larvae**	**Juveniles**	**Adults**
Atlantic cod	X	X	X	X
haddock	X	X		
red hake		X	X	X
redfish	n/a			
winter flounder	X	X	X	X
windowpane flounder	X	X	X	X
Atlantic sea herring			X	X
bluefish			X	X
long-finned squid	n/a	n/a	X	X
short finned squid	n/a	n/a		
Atlantic butterfish	X	X	X	X
Atlantic mackeral	X	X	X	X
summer flounder	X	X	X	X
scup	X	X	X	X
black sea bass	n/a	X	X	X
surf clam	n/a	n/a	X	X
ocean quahog	n/a	n/a		
spiny dogfish	n/a	n/a		
king mackeral	X	X	X	X
Spanish mackeral	X	X	X	X
cobia	X	X	X	X
little skate			X	X

winter skate			X	X
sandbar shark				X
bluefin tuna			X	

EFH is determined by the habitat requirements needed for the species or for the particular life stage of that species. EFH can be described in terms of bottom types, temperature, depth and salinity range required for the species and life stage. New Bedford Harbor is a net depositional area characterized by fine grained sediments such as muds, silts and clays. Coarser sediments (sand and gravel) can be found in the higher energy areas of the Outer Harbor (VHB, 1996). The Upper Estuary portion of the Harbor is a mixing zone characterized by higher temperatures and lower salinities owing to the influx of freshwater from the Acushnet River.

While several species reside in this area and EFH is designated for a variety of species, winter flounder spawning habitat is a concern for this area. Avoiding or minimizing impacts to winter flounder EFH will be a consideration in all in-water and onshore activities along the Harbor. In-water work will be avoided during the time period January through May of any year when spawning winter flounder may be present in the area. At other times, Best Management Practices to minimize silt resuspension and movement will be used to minimize impacts to winter flounder and other species present in the area.

The following preferred projects are discussed for their potential to impact EFH.

(a) Land Acquisition Projects

There were three preferred projects that involve land acquisition as a project task. Since two (**Acushnet River Upland Riparian Restoration** and **Palmers Island Sanctuary and Interpretive Trail**) involve other project components they are reviewed below for those components. One preferred restoration project (**LaPalme Riverside Farm Land Acquisition**) selected for implementation involves funding for the outright purchase of, and imposition of conservation easements on a 46.6 acre (18.9 ha) upland property along the Acushnet River in Acushnet. The ultimate goal of this land acquisition is to provide greater protection to the Acushnet River and Upper Buzzards Bay by permanently preventing development of these sites. Appropriate pre-acquisition tasks (fair market appraisal, title exam, environmental site assessment, property boundary surveys and conservation restriction to be held by a grantee acceptable to the Council) must be completed prior to the Council's funding of the acquisition. Since the Council is only funding the acquisition and will not be funding any upgrades (other than removal of dilapidated sheds) to or development on this property, no adverse impacts to EFH are expected. Should future habitat restoration opportunities arise at these locations, a separate assessment of impacts would occur; these opportunities would be the subject of another funding solicitation not part of this proposed action.

(b) Salt Marsh Restoration Projects

The Council is proposing to conduct a salt marsh restoration project at the Round Hill Salt Marsh, a location off of Buzzards Bay in South Dartmouth.

Round Hill Salt Marsh is located along Buzzards Bay at Round Hill Point in Dartmouth, Massachusetts. The project would restore up to 12 acres of coastal marsh through the removal of up to 75,000 cubic yards of fill material, regrading to historic marsh elevations, planting the area with salt marsh plant species and replacing an undersized culvert with a properly sized culvert. This project received Round III funding for a phased approach where Phase I determined feasibility and Phase II provided a conceptual design for the project. Phase I involved the development of the historical background/site history, base mapping (vegetation, topographic, bathymetric) hydrologic and alternatives analysis, and cut and fill calculations.

For Round IV the applicant has submitted an application to implement the project. This project would require an Order of Conditions from the Dartmouth Conservation Commission, a Section 404/10 programmatic general permit (Category II) from the ACOE; a 401 Water Quality Certificate and Chapter 91 license from MDEP, and a consistency determination from the Massachusetts Office of Coastal Zone Management. An EFH Assessment for the proposed project would be submitted at the time for the purposes of an EFH consultation. Since this study would not involve any disturbance to in-water resources, no adverse impacts to EFH are anticipated.

(b) Tern Restoration

The **Restoration and Management of Tern Populations in Buzzards Bay** project is a continuation of a project from Rounds I, II and III. It involves the Massachusetts Division of Fisheries and Wildlife (MDFW) placing contract tern managers on each of three islands (Bird Island - Marion, Ram Island - Marion and Penikese Island - Gosnold) in Buzzards Bay where Common and Roseate Terns nest from May through July of each year. Both species have been injured as a result of eating fish contaminated with PCBs. In addition, Roseate terns are an endangered species for which a recovery plan has been developed. The managers monitor the tern colonies keeping track of the nests and eggs laid and frightening away predators to increase the chicks chances for survival. The work is being done in conjunction with an ongoing research study and there are other researchers present on the islands.

As described below, one aspect of the project may have an impact on EFH.

MDFW includes in the proposal measures to increase nesting availability on the Tubbs portion of Penikese Island (an island off of Gosnold in the Elizabeth Island chain in Buzzards Bay). Terns used to nest in the grasslands all over the 75 acre island. For agricultural purposes, the island used to be burned to maintain open habitat. Since those burns have stopped, the island has been overgrown with non-native and/or

invasive plant species (blackberry species (*Rubus sp*.), Japanese honeysuckle (*Lonicera japonica*), Asiatic bittersweet (*Celastrus orbiculatus*), poison ivy (*Toxicodendrum radicans*) and beach rose (Rosa rugosa)). MDFW proposes to conduct prescribed burns and herbicide treatments to restore the island to native grasslands and increase nesting availability. This would be followed by planting the burned area with native coastal and grassland species.

MDFW has a prescribed burn plan for the island and has received approval form the MDEP. MDFW will file a Request for Determination of Availability with the Town of Gosnold Conservation Commission which will determine if a Notice of Intent must be filed for the project. MDFW suggests that there is a high likelihood of receiving the necessary authorizations since the goals of the project are to increase nesting habitat for protected species and increase the native vegetation.

At this stage minimal impacts are expected to occur to EFH. The subject of this project, the interior portion of the island, is characterized primarily by non-native and invasive grasses and shrubs. No in-water work is anticipated and there should not be any harmful runoff from these measures.

(c) Habitat Restoration

The **Acushnet Sawmill Ecological Restoration** will be conducted along the Acushnet River but should not impact EFH resources in the river. All activities will be conducted in the upland areas of the site and are designed to remove impacts caused by the commercial development of the site. These activities include the removal of impervious surfaces (approximately 5 acres (2.02 ha)), removal of fill followed by regrading, restoration and reconnection of hydrologic conditions, removal of hardened riverbank and restoration to a natural riparian edge. Native vegetation would be planted.

The **Acushnet River Upland Riparian Restoration** preferred proposal would restore the area 25 feet (2.3 m) landward of the Top of the Coastal Bank of the Acushnet River defined as the Upland Riparian Zone. The proposal includes property acquisition, removal of debris, fill and invasive vegetation, minor grading, construction of a permeable walkway, plantings of native vegetation and monitoring. The total area to be restored extends approximately 11,600 feet (1077.7 m) along the shoreline for a total of 6.6 acres (2.67 ha) of land. Of this, restoration of the vegetation will total approximately 5.6 acres (2.27 ha).

The project will be undertaken in the upland area along the western shore of the river. The area has been the location of industrial development and the proposed restoration will greater restore and enhance the area. The project will provide permanent protection from future development, allow controlled access and will provide enhanced filtering of surface water runoff before it enters the river. This will be accomplished through the permeable walkway and native plantings.

The **Palmers Island Sanctuary and Interpretive Trail** would place a conservation restriction and provide access and habitat enhancements on Palmers Island, which is located in the harbor just inside the hurricane barrier at the mouth of the harbor. The goal of the project is to provide permanent protection, increased but controlled access with the development of an interpretive trail, the development of an invasive species plan and a natural resource management plan and implementation of the plans. The island has had a variety of uses though the centuries and permanent protection and enhancement will allow controlled use and appreciation into the future. There would be no expected impacts to EFH since this proposed project would be conducted in upland areas and any restoration activities would be directed to restoring or enhancing natural resources.

Fish and Wildlife Coordination Act (16 U.S.C. 661-667e)

This Act requires consultation with the U.S. Fish and Wildlife Service for the review of proposed federal actions that may affect any stream, wetland or other body of water and to make recommendations for the purpose of preventing loss of and damage to wildlife resources.

Anadromous species and shellfish are covered under the Act. Anadromous species traverse New Bedford Harbor and the Acushnet River. Extensive shellfish resources exist in the Inner and Outer Harbors. None of the restoration projects proposed for implementation are expected to impact the anadromous fishery or shellfish resources. The types of activities or locations proposed are not in areas where anadromous fish or shellfish would be impacted. The **Acushnet Sawmill Ecological Restoration** and the **Acushnet River Upland Riparian Restoration** will be conducted along the Acushnet River but should not impact anadromous resources in the river. All activities will be conducted in the upland areas of the site and are designed to remove impacts caused by the commercial development of the site. These activities include the removal of impervious surfaces and other man-made structures to be followed by regrading of the landscape and plantings.

National Historic Preservation Act (16 U.S.C. 470 et seq)

This Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation an opportunity to comment on such undertakings. Undertakings include such actions as funding, licensing or permitting.

Before undertaking an action the federal agency determines whether an historic property would be affected by an action. The federal agency then consults with the State Historic Preservation Office and/or the Tribal Historic Preservation Office to avoid, minimize or mitigate the effect to the historic property.

The proposed restoration projects are not expected to impact historic or archaeologically important properties or artifacts. NOAA and the Trustee Council have submitted Project Notification Forms and supporting documentation to the MHC and the Tribal Historic Preservation Office of the Wampanoag Tribe to confirm that the activities proposed will be protective of their trust resources. The following summarizes the MHC responses to each of the proposed projects:

1. **Acushnet River Upland Riparian Restoration**
   MHC Response: Identified historic properties within or adjacent to the project area include the Whitman Mills Historic District (NBE.V) and Head of the River Historic District (NBE.AM) listed in the National register of Historic Places, and several inventoried historic properties, including Manomet Mills #1 and #2 (NBE.635, 636) which the MHC previously offered the opinion are eligible for listing in the National Register. MHC recommended that NOAA provide the project information to the New Bedford Historical Commission, and any other interested organization that requests, for review and comment. NOAA, as Administrative Trustee for the Trustee Council will work with the applicant to make sure that the information requested is provided.

2. **Acushnet Sawmill Ecological Restoration**
   MHC Response: The MHC has determined that this project is unlikely to affect significant historic or archaeological resources.

3. **Lapalme Riverside Farm Land Acquisition**
   MHC Response: The MHC determined that the proposed demolition of two dilapidated sheds and fencing, and the construction of a gravel parking lot, trail and signage may have the potential to impact significant archaeological resources and that plans would need to be developed to avoid or minimize ground impacts. NOAA, as Administrative Trustee for the Trustee Council will work with the applicant and MHC to make sure that the information requested is provided and that MHC's recommendations are considered in all design plans.

4. **Palmer's island Sanctuary and Interpretive Trail**
   MHC Response: The MHC requested the opportunity to review and comment on the draft conservation restrictions and project plans for interpretive sign installations and other activities involving excavation, grading or new construction. Though the Trustee Council will not be funding all components of the project, the Trustee Council will make this request known to the applicant. NOAA, as Administrative Trustee for the Trustee Council will work with the applicant and MHC to make sure that the information requested is provided and that MHC's recommendations are considered in all design plans.

5. **Round Hill Salt Marsh Restoration**
   MHC Response: Where the proposed project was still in the planning stage, the MHC requested scaled plans showing existing and proposed conditions for the

project including a description of the planned restoration activities and equipment staging areas when the plans become available**.** NOAA, as Administrative Trustee for the Trustee Council will work with the project partners and MHC to make sure that the information requested is provided and that MHC's recommendations are considered in all design plans.

6. **Tern Restoration and Management**
   MHC Response: The MHC has determined that the proposed project will have "no adverse effect" on significant historic or archaeological properties.

8: Comments/Responses

8.1 Public Hearing Transcript

The Trustee Council staff tried to produce an accurate transcript of the public hearing. Due to background noise or the speaker's position in the room, some of the oral comments were not understandable from the tape. The Trustee Council appreciates receiving copies of the public hearing video from New Bedford Cable Access and the Mayor’s Office.

New Bedford Harbor Trustee Council
Public Hearing on Round III
November 23, 2010
Fairfield Inn and Suites, MacArthur Boulevard, New Bedford, MA

6:35 pm

Jack Terrill: Good evening.

Good evening and welcome to the New Bedford Harbor Trustee Council's public hearing on the Round IV grant applications for restoration projects.

My name is Jack Terrill and I serve as the Coordinator of the Trustee Council. The Council is composed of representatives from the Commonwealth of Massachusetts, the U.S. Department of Commerce and the U.S. Department of the Interior. With me tonight is Lisa Alexander, the Trustee Representative from the Massachusetts Department of Environmental Protection, Christopher Mantzaris, the Trustee Representative from the Commerce Department's National Marine Fisheries Service and Molly Sperduto the Trustee Representative from the U.S. Fish and Wildlife Service of the Department of the Interior. They have a few brief comments they would like to make.

Chris Mantzaris: First of all thank you. Thank you all for coming to a very important meeting. We're very anxious and pleased to hear what comments you have to say on the proposals that Jack will be presenting shortly. With that I would just like to say thanks again and I'm very anxious to hear what you all have to say.

Lisa Alexander: I'm Lisa Alexander and I guess mostly I would echo that and say that I am the newest person at the Council and somebody in the press said something about revolving but no we're not revolving, I am the new Trustee rep.

Molly Sperduto: Hi! I'm Molly Sperduto I'm the new Department of the Interiors Trustee rep for the site who has been working on natural resources and restoration for about 15 years so will have experience with doing this type of work. Just want to let you know we want to hear your concerns and we want to hear more information you may have about the various projects so we can bring that back and further evaluate the information as we come up with the final recommendations.

Jack Terrill: The Trustee Council's actions are governed by the Comprehensive Environmental response, Compensation and Liability Act. You know it as Superfund, we call it by CERCLA, and we are responsible for the restoration of natural resources that were injured, destroyed or lost by the release of hazardous substances in the New Bedford Harbor environment. In this case it was PCBs and other contaminants.

In January 2009, a Federal Register notice announced the Round IV solicitation. That notice and the accompanying Federal Funding Opportunity specified that up to $6.0 million was available for Round IV. Applicants would have 45 days to submit their grant application and a total of 15 applications were received. The 15 applications (which requested approximately $24.5 million in funding) were reviewed and scored based on evaluation criteria listed in the Federal Funding Opportunity. They were also reviewed by legal counsel and then a recommendation was then provided to the Trustee Council for their consideration. An environmental assessment was prepared under the national Environmental Policy Act (copies of which are in the back) to aid in the decision making and to inform you the public. Tonight's hearing will be both on the environmental assessment that was done but also the choice of preferred projects.

The Trustee Council has made a preliminary decision on which applications the Council prefers for funding. The purpose of the hearing is to hear your comments on the Council's preliminary decision and on the environmental assessment prepared to assist the Council's decision making. Oral comments will be received tonight and written comments will be accepted through December 10. As a reminder you must sign up on the yellow sheets to provide comment tonight. I will follow the order in which people signed up starting with elected officials and their representatives. As I said copies of the environmental assessment, Federal Register notice and summaries of this presentation I am about to make are in the back.

Unlike earlier rounds, we are not asking for a presentation from the applicants on their restoration project. The application that was submitted serves as that presentation. Rather, tonight we are looking for your comments. For some projects the Trustees are looking at options for funding and for others there are specific questions that they might have. I suggest that the applicants for those projects use this opportunity to answer those questions or any that you might think will be anticipated.

As I mentioned, I will now provide a summary presentation of the projects we received. There are four preferred projects and in alphabetical order the first is:

Acushnet Sawmill Ecological Restoration (**PREFERRED**)
Location: - Acushnet
Purpose: Continuation of a Round III project. Restore a 19-acre developed parcel along the Acushnet River
Scope: Restoration through the removal of ~5 acres of impervious surface, fill removal, re-grading, restoration of hydrologic conditions, softening of the riverbank, plantings and monitoring.
Requested Funding: NBHTC - $1,644,993

The next one is the:

LaPalme Riverside Farm Land Acquisition (PREFERRED)

Location: - This is upriver from the Sawmill property in Fairhaven, excuse me, Acushnet.
Purpose: It would protect 46.6 acre parcel along the Acushnet River
Scope: Conduct pre-acquisition studies, purchase 46.6 acres and place a conservation restriction on the property.
Requested Funding: NBHTC - $1,022,605

The next one is a project that was submitted under this round and has been funded under previous rounds. It is the:

Restoration and Management of Tern Populations in Buzzards Bay (PREFERRED)

Locations: Bird Island in Marion; Ram Island in Mattapoisett; Penikese Island in Gosnold
Purpose: Stabilize and restore Common and Roseate Terns
Scope: 1) Restore and manage tern colonies; 2) conduct scientific monitoring; 3) control invasive plants to restore nesting habitat on Penikese Island which is new aspect of the project
Requested Funding: NBHTC - $833,336.15
Other - $52,304.21

And the last would be the:

Round Hill Salt Marsh Restoration Project (PREFERRED)

Location: Round Hill Point, Dartmouth
Purpose: Restore up to 11.6 acres of coastal salt marsh through fill removal and re-grading.
Scope: 1) Remove up to 75,000 yd^3 of fill; 2) plant appropriate salt marsh species; and then 3) replace a culvert beneath Ray Peck Drive.
Requested Funding: There were two options 1) Full builds 11.6 acres for $2,949,275 and the 2) Minimum build 6.9 acres for $2,007,062

So these were the four preferred alternatives and the funding that the Trustees are proposing at this time:

- Acushnet Sawmill Ecological Restoration, full amount ($1,644,993)
- LaPalme Riverside Farm Acquisition, full amount ($1,022.605)
- Restoration/Management of Terns, full amount ($809,977) and the
- Round Hill Salt Marsh Restoration, minimum build ($2,007,062)

Proposed Funding $5,484,637

In addition we did receive other projects, These did not score as well with the criteria we

had. And now the non-preferred projects, also in alphabetical order:

Acushnet River Upland Riparian Restoration Project

Location: Upper New Bedford Harbor (New Bedford shoreline between Coggeshall Street and Tarkiln Hill Road)
Purpose: Restore Upland Riparian Zone.
Scope: 1) Acquire property; 2) develop final design and permitting specifications; 3) remove debris, fill and invasive; 4) construct walkway, planting of native vegetation; and 5) monitoring.
Requested Funding: NBHTC - $6,059,609

The next one was the:
Enhancement of Bottom Habitat for Marine Species in Buzzards Bay as Related to the New Bedford Harbor Clean-up, essentially an artificial reef project.

Location: New Bedford Harbor/Buzzards Bay
Purpose: Deploy an artificial reef to enhance bottom habitat
Scope: 1) Determine appropriate site; 2) deploy artificial reef; 3) monitor artificial reef
Requested Funding: NBHTC - $932,705
Other – $80,055

The next one was the:
Lobster Stock Replenishment in New Bedford

Location: New Bedford Harbor, Buzzards Bay
Purpose: Replenish lobster stock by releasing cultivated juvenile lobsters and monitor results.
Scope: 1) Determine appropriate release sites; 2) cultivate lobsters to stage V which is a larger juvenile; 3) release juveniles on prepared habitats; 4) monitor for abundance, wild vs. cultivated lobsters
Requested Funding: NBHTC - $613,714
Other - $29,371

The next one is the:
Palmer's Island Sanctuary and Interpretative Trail

Location: Palmer's Island, New Bedford Harbor
Purpose: Establishing a sanctuary on Palmer's Island
Scope: 1) Place a conservation restriction; 2) develop interpretative trail; 3) develop invasive plant species management plan; 4) map wetland – monitor invasive plants; 5) construct a pedestrian bridge; 6) relocate osprey pole.
Requested Funding: NBHTC - $1,113,619

Next proposal was the:
Regional Shellfish Restoration

Location: Upper Buzzards Bay
Purpose: Restoration of the shellfish resources
Scope: 1) Purchase and distribute seed; 2) conduct contaminated shellfish relay; 3) purchase and distribute clean shellfish for family program; and 4) conduct predator control and enforcement augmentation.
Requested Funding: NBHTC - $800,000

Next project is the:
Regional Waterways Public Access Project at Clarks Cove in Dartmouth, MA

Location: Rogers Street
Purpose: Improve recreational opportunities and enhance natural resources at the site.
Scope: Complete pier construction, install floats and moorings, provide classroom, repair and storage facilities.
Requested Funding: NBHTC - $1,009,375
Other - $539,820

And the last of this group is the:
Water Quality and Habitat Enhancement Northern Fairhaven, New Bedford Harbor

Location: Northern Fairhaven – New Bedford Harbor
Purpose: Correct existing stormwater discharges that are adversely affecting natural resources.
Scope: 1) Design and install low impact stormwater treatment BMPs; 2) update existing sewer system report and sewer and stormwater hydraulic model; 3) monitor and maintain BMPs; 4) provide educational outreach.
Requested Funding: NBHTC - $2,420,470
Other - $ 277,900

Now we had a number of proposals that we felt fell outside of the scope of restoration that we are involved with. There is a clear distinction between our activities which is restoring the injured natural resources and cleanup or remediation activities which are the auspices of the EPA and the Army Corps of Engineers. A number of proposals that came in talked more about cleanup, remediation activities.

The first was called:
BioHaven – New Bedford Harbor

Location: Apponagansett Bay, Dartmouth
Purpose: Installation of floating islands to restore wildlife habitat and improve water quality.

Scope: Install 80,000 ft² of Biohaven floating wetland (24 islands 16 feet wide by 300 feet long)
Requested Funding: NBHTC - $2,000,000
Other - $1,115,000

The next one is the:
GEC Self-sustaining Comprehensive Ecological Model for Restoring the Acushnet River and Sustaining Restoration Efforts through the Establishment of "Green" Recycling Profit Centers

Location: New Bedford Harbor
Purpose: Restore habitat so that it is self-sustaining
Scope: 1) Employ/train workers-water and soil restoration; 2) Restore soil and water using "Huma-Clean" process; 3) Establish profit centers for recycling biowaste materials
Requested Funding: NBHTC - $1,689,750
Other - $1,737,375

Another one was a:

Low-Impact Wetland Implementation

Location: River Road, New Bedford
Purpose: Reduce risk of PCB contamination while minimizing remediation impacts on marshes.
Scope: Field demonstration of a wetland remediation technique (activated charcoal) and monitor the results. Tasks involve site selection, design plan development, permitting, treatment and monitoring.
Requested Funding: NBHTC - $1,001,783

The next one was interesting:

Restoration of Top Food Chain Species through the Reduction of PCB Availability by a Novel Seaweed Bioremediation System

Location: New Bedford Harbor and Upper Buzzards Bay
Purpose: Reduce exposure and bioconcentration of PCBS.
Scope: Removal of a particular seaweed found to take up and sequester PCBS. What would happen is they would harvest this seaweed and remove it to an offsite disposal site. Replanting experiments would be conducted. Different techniques would be examined.
Requested Funding: NBHTC - $438,921
Other – $95,368

So at this point, the sheets that you have been signing are coming forward now. As I said earlier you:

1. Must sign up to speak;
2. The speakers will be taken in order of signup;
3. We will take the elected officials first.

I left a blank here to determine if a time limit on presentation was necessary. Given the number of people signing up, there will be no time limit.

I ask if you are reading a letter or document, please leave a copy. We will be preparing a transcript and having a copy will make that process easier and more accurate.

I ask that you please use the microphone in the middle of the room and that the first person up please turn it on. And that first person is Mayor Scott Lang.

Mayor Scott Lang:

Before I speak I would like to ask the members of the City Council who are here, they have a City Council meeting tonight, to speak first please. I know Councilor Martins is here.

New Bedford City Councilor Steven Martins:

Thank you Mayor Scott Lang for letting me go first. We do have a City Council meeting at 7:00. I do have to get there, but some of my colleagues who were here today just so that I can acknowledge them had to be back so we could have a quorum for our meeting. Councilor Morad from Ward One, Councilor Gonzales from Ward Five and our City Council President, Councilor Lawrence, was in attendance today to speak, but asked me to speak in their favor as well. With that said I don't have a second copy of this, but I will email it to you when I get home tonight so you can have that for your record.

First, I want to thank the New Bedford Harbor Trustee Council for allowing this public hearing to take place and to voice our concerns in regards to funding these important projects for the City of New Bedford. I also want to thank everyone who is here tonight, who I am sure the Trustee Council will be hearing from and share the same concerns as the City Council do.

First, I want to make it clear that I'm sure all the projects proposed to this Council have high merit to be funded, including the choices this Council made to fund projects in the towns of Acushnet, Dartmouth, and Marion – and there's no question that all projects proposed deserve consideration because of their high importance to the community. But my frustration comes from this Council giving New Bedford a low score in the merit ranking in all submitted applications we put forward. My frustration is shared by many of my colleagues on the Council who are here today many of them who cannot be here because they are starting the meeting. And also shared by many of my constituents in

PH-1

Ward 2 who I represent, and many other constituents that myself and other Councilor's represent across our great City of New Bedford.

To exclude each and every single project in New Bedford seems impossible. It is just incomprehensible. To exclude the proposals from the very city with the most environmental damage can only bring speculation that more is at work in the decision making process than "merit rankings". Anyone who has reviewed the New Bedford proposals for funding outside this Council, to our very own City Employees' who worked hard in gathering this information and putting together our requests, and to all the community partners and residents who have been involved by gathering their input with these projects from day one, can see that these projects are worthy of funding and do have a high merit - for New Bedford not to receive a dollar by this Harbor Trustee Council can only bring speculation. So goes my frustration....

But now that the message is clear and right out in the open. A message from the New Bedford Harbor Trustee Council that New Bedford has been ignored and upset many of us here in New Bedford, including the people that we represent each day who have been calling us and emailing us since this decision has been made. I cannot sit, and the City Council cannot sit and let this message ring out without an answer and if there is to be fairness, if there is to be merit, there must be reconsideration of this decision tonight. PH-2

The decision to reject the proposed restoration of the Acushnet River Upland in New Bedford must be changed. The proposal which I know the Harbor Council is aware of includes many important points to restore the area, including the removal of all debris, minor grading and placement of clean soil/loam to support proposed plantings and many native vegetation that was all included in this proposal, including a pedestrian walkway. The benefits from this project only show positive benefits for all of us in the long run, including our neighboring communities. PH-3

In order to "improve aspects of the human environment of the New Bedford Harbor that have been degraded by the harbor contamination", one must first improve the human appreciation for the natural resource. The lack of appreciation for the harbor and the disrespect for the environment that is impacted by the harbor are the root causes of the cavalier actions that contaminated the harbor in the first place. People will use a resource in a way that they believe benefits them.

The harbor was used as a dumping ground for contaminants because it was viewed as nothing more than a convenient and disposable economic tool rather than a treasured natural resource. This proposed project would serve to positively connect the largest population in the area directly to that resource. That connection promises to alter views and attitudes about the value of the resource. It teaches that preservation of the resource will provide the greatest benefit. It brings about lasting change in the human environment that protects the natural resources not just now but for years and generations to come.

The New Bedford Harbor Trustee Council had the opportunity to do what's fair and follow the criteria properly and it has the opportunity to end all speculations of this decision made and have all of us stop wondering what the motive behind this decision can be. There is no need to address or change those speculations or motives, if any; just a need to change the decision and approve all of our city projects, including the restoration of the Acushnet River Upland Restoration plan in New Bedford. The Trustee Council has the opportunity to do that, and do what's right. PH-2 PH-4

New Bedford already has and New Bedford deserves nothing less.

Thank you for the opportunity for letting me speak.

Mayor Scott Lang:

I am very appreciative of the fact that the Trustee Council came to New Bedford so quickly after the decision was released. The decision was released on November 10. Sometime in the late afternoon and we're here 13 days later discussing their decision and I want to point out several things. First I believe that the proposals made by New Bedford had a tremendous amount of merit and they have merit from the standpoint of everything from restoring what has been lost, as a result of PCB contamination both in the Acushnet River, the Upper Harbor, the Harbor and the Outer Harbor. I also think that they enhance the quality of all of the individuals of this city, connect the city back to the waterways that were spoiled by industrial contamination, PCB contamination. I believe that they are tremendous economic drivers for the city, which has been stunted as a result of the PCB contamination and as we look forward, we are still hearing from EPA that it may take as much as between thirty or forty years to clean up our Superfund site and status. So to begin to restore the areas that were damaged and bring people back to the water and bring back environmental balance is something that is extremely important and we don't take lightly. I believe that as ground zero of the pollution and contamination, we certainly presented projects that deserved more than simply a vote of no merit – especially when we stack up the projects that were all very, very worthwhile, but compared to the ones that effect this city in the greatest way. So we found tremendous – I think we thought it was completely disingenuous to grade the New Bedford projects as having no merit – an absolute affront and insult to the very people who bear the brunt of the contamination that lays in this harbor. PH-5

The other thing I want to say is that when we asked for all of the project proposals and the balance sheets indicating how the Harbor Trustee Council made its decisions, but we were told that they were not available and we FOIA'd those immediately thereafter. But the point I think is simply this, not only was this not a transparent process as it was going on, but at the end of the day the windows still have not been opened to allow light in to show exactly what was at play here. And what I mean by that is simply this, I contacted Jack Terrill on a regular basis to find out the status and find out exactly what, in all honestly, what the undue delay was. These projects were all due to be submitted PH-6

PH-7

in February of 2009. Our experience on this is that within six months, nine months to a year, at the very least, we received information as to what the final outcome has been. It took 21 months to receive notice as I say on a day that was extremely curious. Veteran's Day in New Bedford is a major holiday. We're an extremely patriotic city. We take Veteran's Day extremely seriously. I also know that the media's focus is on Veteran's Day and it was very curious to me after 21 months, the Council would then announce its awards and each one was an award that did not have anything to do, quite frankly, with New Bedford. So I found that the process itself was curious. I found as we delve into it we're honored today to have the Trustee representative from NOAA with us who was on the Council when these decisions were made. We're also very honored to have two new Trustees who were not involved in these decisions in any way. The Trustee from Mass. DEP and the Trustee from the U.S. Fish and Wildlife which is Interior's representative. Two of the three Trustees who are here today had nothing to do with the 21 month delay or the evaluation that said the New Bedford project had no merit. The other thing that I found curious about this and then I'm going to talk specifically about the equation that I see regarding the money that has been distributed over the 17 years. The other thing that I find to be absolutely curious in this entire episode of another situation that makes us all wonder whether the federal government and specifically NOAA is really connected to the local feelings of the City of New Bedford and the people of the City of New Bedford, is that we had a situation here with 2 of the projects that were funded were sponsored by the government. And I understand I saw an explanation of this and I'll tell you what they were. The first one was the salt marsh restoration out at Round Hill was sponsored by NOAA. And the question again on terns, the question on bird sanctuaries was sponsored by Mass. Fish and Wildlife. It was explained to me that while the two governmental representatives, when their particular project was presented, abstained from the actual vote. And the answer to that is we've seen that before. We have seen that method before. There are three people on the Council. If one abstains, you have two votes left. They were then afforded a preferred status. Then when the next one came in, the other governmental representative abstained and there were two votes for the project and it was given preferred status. So it was kind of I will abstain from yours and you abstain from mine, but the fact of the matter is both were funded, both were sponsored by the government. So the government deciding where the money would go when there were projects that had been proposed by the localities that were ignored. Then the last thing I'll say is this up until now New Bedford directly related projects have received 33% of the $19 million.

PH-8

PH-9

PH-10

If you went ahead and funded this round as it's been proposed out of the $25 million allocated for this particular Trust Fund – New Bedford would have received 25% twenty-five cents on each dollar awarded. The fact of the matter is intuitively that doesn't seem to be correct, but if you read every document that has to do with the Superfund site and the result of the settlements and then the result of the Trust and then the result of what the Trust should have produced, it's absolutely improper. It does not stand the test of any scrutiny whatsoever. The fact of the matter is if you fully funded the New Bedford projects during this round, exhausting the $6 million of this funding round, New Bedford will have received fifty cents of each dollar spent from the Trust. Which again you can

PH-11

say fifty cents is a great deal of money. It is a very small amount of money quite frankly to try and repair damage and restore the damage that was done. But indicating to the City that suffered the most or to the immediate area that suffered the most we're going to give you fifty cents on every dollar, it's just not appropriate. The last thing that I would say regarding what caught my eye on all of this is the fact is we have a situation here where the boundaries have been set as I understand it below Wood Street and basically up to the area that the EPA says you can't catch fish and safely consume them. Which is more or less a parallel line just out beyond Butler's flat, kind of even with Mishaum Point and straight across. If you look at page 71 or if you have the chance to – the chart I would like to see quite frankly is the chart that is in the back. The chart in the back shows every project and it's on page 71 of the Damage Assessment Remediation and Restoration Program for Round IV. The map on page 71 shows all the different projects that have been funded with a red flag and then the newest ones in green so the four new ones in green and everything else in red. You can see where those flags extend. These are all our good neighbors. We love these projects. We love the Bay. We'll do anything we can to protect the Bay. But when you look and see New Bedford has received a third of the money, you can see where two thirds of the money has gone. And if New Bedford is going to receive twenty five cents on the dollar, just take those green letters that are there now turn them into the black or blue letters that this chart shows and you will see the disparate treatment that New Bedford has gotten.

Now let's talk Thanksgiving, let's talk turkey on this for a minute. Here is my gut feeling on these projects. The projects that the government has sponsored should be out the window immediately. The idea that there's a project, I am fully supportive of Dartmouth we have so many cooperative ventures with Dartmouth, but the idea that we're doing a Round Hill Restoration – a salt marsh restoration that was proposed and sponsored by NOAA is not right and should be removed from the table – that's first. The next one that we should remove from the table is the bird sanctuaries out at Penikese, at Bird and at Ram Island. Now those are beautiful islands, beautiful vistas – we all believe again in preserving tern population, we believe in bird watching, we believe in the sanctity of our wild life, but the idea that New Bedford PCB money would be put towards bird sanctuaries is just an affront and outrage to the people of this city.

PH-9

PH-12

So that takes away two of the projects right off the bat. The next two projects are very interesting because they border on a project that we believe in, but I think quite frankly they should not be preferred projects over ours. And that is the Acushnet Sawmill Restoration and the other one is the St Jean Farm. The fact of the matter is that both of those we are all in favor of having natural space for our people whether it's in Acushnet, Fairhaven or New Bedford or anywhere else in this region to walk, hike and enjoy nature. But the fact that it's being put in a priority over a Riverwalk that would go from Coggeshall Street all the way around into Acushnet, back down into Fairhaven – eventually connect with the Fairhaven bike path, just doesn't seem to make sense. You absolutely need the Riverwalk in order to connect. Any type of rationale for saying that we should buy the St Jean farm or we should begin now the restoration of the Acushnet

PH-13

Sawmill all above Wood Street, by the way. All above the definition that's included in the definition of the area that needs to be restored or repaired.

So the fact is if you move those off to the side, we pledge that we'll help find funding sources for them. But then what that leaves in the area of New Bedford that needs to be addressed, it needs to be focused on are the three projects that we propose: The Riverwalk which connects the people of this City with the Acushnet River. When I took office, one of the first meetings I had I was told by a developer that "the Acushnet River is dead. What are you worrying about? It will never come back." The Acushnet River now we are about to begin having recreational activities on the Acushnet River. We are seeing tremendous development on the Acushnet River. The Acushnet River means jobs, tax base and it also means the ability to provide services for our City. So the idea that we would once again delay connecting people with the Acushnet River, begin restoring the river banks, begin the restoration of plant life that's gone, begin cleaning it up day-by-day simply by having people reconnect with it, is something that we think is short-sighted. PH-3

As far as Palmer Island goes, Palmer Island has a history as well known as the City of New Bedford. And it has as diverse history and as many as many different populations that have come to New Bedford all claim at one point or another Palmer's Island as a place of recreation, as a place of great culture and history. Palmer's Island has not been accessible to the people of this city in a hundred years, similar to the Acushnet River. The Palmer's Island proposal, 1 million in change is something that we think is extremely important. It will be a wildlife sanctuary. It will provide different opportunities from the ecosystem as far as the bay goes. But more importantly we intend to get people back out on Palmer's Island. Which is going to be a great opportunity for the citizens of this City, and everyone who visits our City, and all of our surrounding towns. PH-14

Last but not least, the project that has been left on the side of these funding grants over the last 17 years has been shellfish restoration. Shellfish restoration if you are looking immediately to see a species that was harmed, to see a species that needs to come back as a result of PCB contamination, it's the shellfish beds just outside of Butler's Flats in Clarke's Cove in that general area. The fact is it is not only a recreational piece of our quality of life, but we have a number of families, a great number of families that have earned a living or have earned additional money by way of shellfishing. So it's again a situation, it's historic, it's cultural, it's economic and it's also smack in the middle of what we are trying to do with this money. PH-15

So here is, I guess the plea that I would make, as the Mayor of this city and we have so many citizens here who are going to speak tonight – they'll speak their mind, but I think I have a pretty strong understanding where the city is on this. We believe that you should go back and look, you have two new Trustees. You have two new Trustees who haven't studied these proposals in any way. You have a comment period until December 10. We were raring to go on these projects, but I think you should go back and examine these proposals again. Specifically the proposals that fit within the target PH-2

PH-16

area that New Bedford worked very hard on and that we believe should be fully funded. If you did, it would mean we would get fifty cents of every dollar. I looked the other day at the administrative costs of this fund, the administrative costs of this fund quite frankly could have funded everything that exists north of the Wood Street bridge over the last 17 years.

So this is the situation, now let's put the money where the harm took place. Let's restore this funding the way it should have been administered and implemented to begin with and we can do it in a timely fashion. You weren't going to come out with final decisions on this until sometime right after the 1st of the year because another 21 month delay is not appropriate. We know this is going to be done very quickly now. We know that no longer are we going to be involved in this situation where we are trying to figure out day-in and day-out what we need to do. We need to do what's right, appropriate as fiduciaries of the Trust and for the intent of the Trust. So we'd ask you to reconsider our proposals. We will work hard with the sponsor which is a legitimate organization that we deal with and have great admiration for which is Buzzards Bay Coalition. We will work with them to help them find the appropriate funding sources for their projects, but we believe these funds should be spent on the City of New Bedford's projects. PH-17

So thank you, thank you very much for hearing me.

Steven Sharek:

My name is Steve Sharek. I've lived almost my entire adult life in this region, half of it in the City of New Bedford, half in the Town of Dartmouth. I've been an elected official in both communities. I served as a member of the City Council in New Bedford. I currently serve as the Town Moderator in Dartmouth.

I don't come here as an elected official. In fact, my comments tonight won't win me any friends – or votes – in my hometown.

I come here as a private citizen who's watched this region systematically plundered and abandoned by private industry, by politicians, and by the state and federal government. With few exceptions, people in this region – particularly those in New Bedford – have been treated like second-class citizens. When economic opportunity is created, we are often last in line – or not allowed in line at all.

I come here as a person concerned about fundamental fairness.

The funds you administer were set aside to help compensate for the environmental assault and degradation suffered by this city and its residents. The money, in my opinion wasn't put aside to help restore wild birds on the islands off Marion, Mattapoisett and Cuttyhunk or salt marshes at Round Hill in Dartmouth. Dartmouth is the town in which I live and the town I represent as an elected official. PH-18

Don't get me wrong: I'm an environmentalist. I love wild birds and salt marshes. I'm not against either project. That's not the point. I also know that we live together on one planet and what we do in one place affects every other part of the planet. In short, I know you might be able to justify on slim, purely scientific grounds spending millions of dollars in areas not directly hurt by PCBs in New Bedford Harbor. I know you might be able to do that. I urge you not to try.

The dumping of PCBs almost killed our river. It cut off fishing, shellfishing, swimming, recreation. It left us with national headlines, embarrassment, and economic loss. It created a stagnant cesspool, virtually unusable for any purpose.

Decades later, we are still trying to recover. This money – the Harbor Trustee money – was put aside to help us restore our natural resources.

In this final round of funding, as you heard from Mayor Lang, the City of New Bedford submitted several strong proposals to the Harbor Trustee Council. At this point, it looks like the Council is not funding any of them. This to me is simply unfair. PH-1

Mayor Lang has said, though he did not say it tonight, he has said it publicly, he will sue the Harbor Trustee Council if it continues to blackball the City, to shutout the City from all funding. This is no idle threat. If I were Mayor, I'd do the exact same thing. And so frankly, would you.

So here's your simple choice: You can choose to divert the last few million dollars to pay for projects outside of the City of New Bedford – projects that don't benefit the City; projects which lack any wide public support; and whose connections to New Bedford Harbor PCB pollution are tenuous at best. You can stubbornly insist on doing that, knowing full well that a federal lawsuit will result. PH-19

Or you can simply do what you already know is right, fund the projects which actually help those who have been victimized by the PCB pollution in New Bedford Harbor. PH-2

By doing that, you could conclude your service on the Harbor Trustee Council, albeit brief, with honor, with a clear conscience, and with thanks from a proud and grateful City.

Thank you.

Al Medeiros:

Thank you. I am Rep. Antonio Cabral's Legislative Director. Unfortunately he could not be here tonight. If he was here he would be emphatically in favor of having you reconsider the preliminary decision. I would like, if I may, to read a letter in support of testimony on his behalf. PH-2

I am deeply disappointed with the Council's recently announced preliminary grant award decisions in what is likely to be its last round of grants for New Bedford Harbor environmental restoration. These are not the decisions for which the Council and its members want to be remembered when the Council's role in one of the nation's largest environmental clean-up projects is examined. PH-19

The centuries' long contamination of New Bedford Harbor has and will long continue to serve as one of our nation's most important examples of industrial pollution. Similarly, the Harbor's clean-up has helped to establish the precedents for such projects in the United States and around the world. The New Bedford Harbor Trustee Council's record will surely be examined by those judging the success of the natural resource trustees established by CERCLA. In the coming weeks, the Council has the last opportunity to ensure that it will be deemed to have understood and fulfilled its role in this project: to help to reverse the damage done to the environment and the people of New Bedford.

To date, two thirds of the Council's grant funds have gone to projects outside of New Bedford. Similarly, the projects which the Council proposes to fund in this round would restore wetlands which were either not damaged by the pollution of New Bedford Harbor or only very indirectly damaged by that pollution. Most disturbingly, most of these funds would benefit some of the highest income area neighborhoods most distant from the pollution. I urge you to reconsider. PH-20

New Bedford's Upper Harbor Riparian Restoration Project would restore a portion of the Harbor damaged by New Bedford's industrial pollution and thereby rendered useless to its people. The Palmer Island Sanctuary Project and the City's Shellfish Rehabilitation Project would also most directly benefit the families and neighborhoods who have most directly suffered the effects of the pollution the Council exists to respond to. For decades New Bedford's residents – specifically, those living adjacent to New Bedford's three proposals – have been exposed to their City's industrial legacy at work, in their homes, schools and neighborhoods. This is the Council's last chance to respond to them. PH-21

Although the projects the Council proposes to fund, in Acushnet, Dartmouth and Marion, are worthy projects, the Council can best meet its own objectives—to restore natural resources injured by PCB releases; to restore human uses of natural resources, such as fisheries and public access; and to improve aspects of the human environment of New Bedford Harbor that have been degraded by the Harbor contamination—by emphasizing projects in New Bedford Harbor itself. PH-22

You would make a significant statement by affording city residents access to the stretch of waterfront targeted by these New Bedford projects for the first time in decades. You will also have said loud and clear that the damage done is being reversed. I urge you, the members of the New Bedford Harbor Trustee Council to reconsider your decision and put the remainder of the settlement funds where they belong, right here in New PH-2

Bedford.

Thank you, Antonio F.D. Cabral

State Representative Bob Koczera:

Good evening and I'm glad that you are holding this hearing here in New Bedford. It gives local people an opportunity to voice their concerns. I am here along the same lines that our Mayor and other elected officials are. I would like to see you reassess and reallocate the remaining funds that you have available to you. So that the city of New Bedford that's receiving the greatest impact or has received the greatest impact of the PCB's pollution in the Acushnet River could receive the damages that they are entitled to. It's pretty sad when you listen to what the Mayor said and realize that if these recommendations go through, the City of New Bedford will only receive 25 cents on the dollar and, furthermore, if we receive the full funding of some $4.4 million that is New Bedford's request of this supposedly final round of funding, we'd still only receive 50 cents on the dollar. It's a question of fairness in my opinion and justice. PH-2 PH-11

I can recall when I was a City Councilor in the 1980's attending EPA hearings on the harbor cleanup and hearing stories of a generation of area residents that swam and fished in that closed polluted waterway. We know that generations from now still won't be able to swim and fish in that area. But the proposals that have been put forth by the City of New Bedford will mitigate the impact of that harbor pollution by connecting the people of this area and the people who visit this area with that waterway. The Riverwalk has very real benefits as real as Taber Park in the City's southernmost tip. That's enjoyed not only by New Bedford residents, but residents from afar. PH-23

I can also recall when I was on the City Council in the 1980's that city shellfishing was closed, but that didn't stop state officials from taking those shellfish and seeding them in other areas. No reciprocity was given to New Bedford shellfishermen to purchase a resident permit in those communities that have it. Where's the justice? Where's the fairness? The proposals that have been put forth – now I am going to be brief in my remarks simply because I haven't prepared any – they just come from the gut rather than from the heart. The City of New Bedford has been short-changed even in the Superfund cleanup because of what has gone on in Washington. A project that if it would have received the kind of funding it should have received would have been cleaned up in a realizable 10-15 years instead will take 30 or longer years with very minimal amounts of funding to help eradicate some of the hot spots in the harbor. So I ask you to review all of the proposals that have been given and then rank them first according to the areas that have suffered the greatest impact and what good can be done to go in and address those areas of greatest impact. I think you will find the restoration of the shellfish bed, the restoration projects for Palmer Island and the establishment of the Riverwalk will do good not only for the people of the city of New Bedford, but people of the surrounding area as well as the many visitors that we get to this region. I only point to the fact that it took under another Mayor and his leadership PH-24 PH-2

the construction of a secondary sewerage treatment plant at the southernmost tip of New Bedford and the creation at the same time of a park. He paid a political price for it and in many cases he was ridiculed for it, but Taber Park in the city's south end is something to behold. It has walking paths, it has people there and it's been a good thing. I would submit to you that you have the authority to take a look at all of these recommendations and ask to start fresh and take a look at the area that has been impacted and say, "What can we do?" "What can we do to connect this area to this waterway?" They're not going to put swimming trunks on and go into that water, they know it, but they could use that Riverwalk. And this is money at hand and the shellfishing does go on in New Bedford and it means more to people than the projects that have seemingly have been recommended for funding and as the Mayor pointed out really makes a pretty bold case of favoritism and bias. So with that I would ask you to reconsider and realize from my standpoint that on every dollar that you have at your disposal as a trustee, at best, only 50 cents of it is going to be returned to the people that are affected the most and I represent the Town of Acushnet. The buying of conservation land, the restoration of the Sawmill property is a benefit. A greater benefit is that Riverwalk, a greater benefit is the shellfish restoration in New Bedford to people who have been adversely affected by the vary impacts that this money is supposed to be used for. I thank you for your time.

Mark Treadup:

Good Evening! I probably should have prepared some remarks, but I haven't. The first thing I would like to point out, I suppose a parliamentary procedure, and that is with your newly composed board some of you, the newer members may feel it a bit difficult to go against recommendations made by a previously comprised board. I think what you should do is look at all the projects that do qualify and start anew, relative to ranking them. PH-8

I have some degree of institutional memory relative to the harbor, starting back when I was in High School when the hurricane barrier was completed. Unwittingly trapping all the PCBs that were there for a long time to come. Perhaps making it more necessary for the work that was eventually done to remove them. I can also remember as recently as this past spring working on Palmer's Island with the annual clean-ups. I think what you have to ask yourselves is what is the source of the funding that we have? Why was that money generated? It was generated because of the damage that was done to New Bedford Harbor. I have nothing against Roseate Terns. I would prefer that they perhaps attempt to nest on the roof of my building rather than the seagulls that I have now. PH-25

All of the projects, whether it be from Palmer's Island, while I cannot recall, I am not old enough to recall when that was actually a residence, but it was. It's a beautiful little piece of nature that needs to be protected and made more accessible to the residents of this city and of this area. Relative to the shellfishing, I can recall after it was discovered that the PCBs were as harmful as they are that we still had folks that who would

periodically be apprehended by the local shellfish warden and unwittingly they were passing on contaminated shellfish to folks. I think it is certainly merited again because of the fact that the shellfish which was polluted by the PCBs. This would give us an opportunity to replace the damaged and natural sea lives that was available to the residents. As far as the Harborwalk, that is a great idea. Again it would allow folks from the city to get close. You are not going to find folks swimming in the Acushnet River. I can remember when I was in the Army in Texas. I had been in for about 6 months and I finally got to the ocean, got to Corpus Christi and I ran in the water in the dark and I said to myself what a damn fool I was. Who knew what was in there and I got out as fast as I could. I'm not going to go swimming in the Acushnet River. I don't think anybody is, but this will allow for our folks here to utilize areas that have been damaged because of the PCBs and they are the reason that you have this money to expend for our benefit. Thank you for your consideration.

Scott Alfonse:

Good Evening. My name is Scott Alfonse and I am the Director of the Environmental Stewardship Department for the City of New Bedford and I would like to thank the Trustee Council for holding this hearing tonight in New Bedford and giving us an opportunity to voice our concerns about the proposed projects that the Trustee Council is looking at funding.

The City is urging the NBHTC to reconsider the three proposals submitted by the City of New Bedford. PH-2

The City proposals seek funding to restore habitat in the area where natural resource damage has occurred. The Regional Shellfish restoration will enhance shell fishing resources in New Bedford. The Acushnet River Riparian restoration project will restore a 25 foot riparian zone with native coastal shrub and meadow habitat which will increase the diversity of birds, mammals, reptiles, and insects in this area. This vegetation will also filter stormwater from adjacent developed lands, improve water quality and benefit living resources within the Acushnet River.

The Palmers Island Sanctuary project will protect and preserve the native habitats on the island while permitting passive recreation. This will preserve the *only natural coastal island habitat within New Bedford*. The natural habitat of the island will be restored by removing invasive species. The project includes an educational interpretive trail, and information on the functions and values of the existing habitats. PH-14

Other proposals identified for funding seek to restore habitat or acquire land outside of the marine environment. While we support acquisition and restoration of habitat, it should not come at the expense of projects that propose to accomplish this in the marine environment which has been most impacted by contamination.

New Bedford Harbor is one of the greatest natural assets in our City -- a resource damaged by an overall lack of stewardship. We need to promote stewardship and avoid repeating actions that damage this resource by reconnecting the public with and providing a better appreciation for the resource. These projects provide a direct benefit to the damaged resource, and are within walking distance -- not driving distance -- to a significant portion of the population impacted the most by damage from contamination in the harbor. By helping the greatest number of people realize the benefits of this natural resource, we will be creating the next generation of stewards and ensuring the long term protection of New Bedford Harbor. PH-26

The projects proposed by New Bedford are among the most relevant – one of the criteria that the Trustee Council considered in their evaluation and I think it was given 35% of the score. New Bedford's projects enhance natural resources in an area where damage occurred. They give the largest ecological and economic benefit to the greatest number of people affected by the injury to the natural resource, and will enhance the public's ability to use, enjoy or benefit from the harbor environment. Other projects selected for funding do not meet all of these criteria. Some of the projects that have been selected for funding actually do not have the level of public access that the two of the New Bedford projects have. PH-27

The process used by the Trustee Council needs improved transparency to demonstrate that funds are used appropriately. The Trustee Council justified its decision not to fund projects by stating that "...the project received a low score in the merit ranking." The Trustee Council has not made public the merit scores used to rank projects or copies of applications selected for funding. I urge the Trustee Council to make this information available. PH-4

I want to thank you for this opportunity to provide comment. I will provide a written copy of my comments tonight.

Mark Rasmussen:

Hi! Good evening. My name is Mark Rasmussen. I am president of the Coalition for Buzzards Bay. I am going to be talking mostly . . . this map here presents a vision that goes along with my comments tonight so I am going to be talking a little bit off of this map and I'll have copies for the Council later. I didn't bring extra copies of my written stuff, but I will get it to you.

I want to start just by plainly saying that I really hope that the Trustee Council follows a lot of what you heard tonight and dedicates all of the $6 million available to and around restoration projects within this project area. This is ground zero for the PCB contamination, here in the Upper Harbor. I hope all of the money that you award this time goes right towards the projects between Coggeshall Street and the head of tide. These projects: the Acushnet Sawmill Ecological Restoration project, the LaPalme Riverside Farm Land Acquisition and the City's Riverwalk are natural compliments to PH-2

PH-28

each other and can both be accomplished with these funds in our views. I want to underscore the opportunity before us here. A lot of people don't believe you when you tell them that within three blocks of Lunds Corner, in the mostly densely developed part of the city's north end, you can actually walk to a site where striped bass chase bait fish all the way up out of the bay up into the upper reaches of the Acushnet; where river herring meet every spring to gather to go north to spawn, where perch and pickerel are available for fishing and swimming and where you can touch the water, wait in the water and fish and swim. This is not a remote conservation opportunity for the City of New Bedford. It's right in the city's back yard at the western side, the left side of that big circle. It all happens at the Acushnet Sawmill.

What if we can open this ecological treasure? This uncontaminated non-toxic piece of the Acushnet River; acquire it, restore it and return it to the city and the people of New Bedford. Wouldn't that be one of the greatest legacies this money could achieve for the city? And it can. The Trustee Council has the opportunity to do the Acushnet Sawmill proposals and make this vision a reality. At a cost of $2.6 million, the funding of these proposals would expand the conservation area of the Sawmill from 19 acres, with 5 acres of degraded impervious cover; expand that area to add another 47 acres of land to this large complex of conservation land; to restore and remove 5 acres of impervious and restore it with natural wetlands; to open this property with a parking area with trails and interpretive signage and make this link back to the city. PH-29

We are very proud of these projects that have come together in partnership with the Town of Acushnet and with other partners to bring this opportunity to the city. I have to comment I agree with 99% of everything the Mayor and most of the speakers tonight have said. I want this money focused in New Bedford Harbor. It belongs to the people here -- it belongs in this area that's most affected, but I reject one premise. The idea that walking two blocks or three blocks from Lund's Corner on Acushnet Avenue and the corner of Belleville Avenue and Tarkiln Hill Road, the idea that you have to walk a couple of blocks, but you cross the city boundary when you do that, but when you do cross that boundary, you cross into an area of the river that is clean, available for fishing and swimming and real contact and real connection, I don't regard that project as any less valuable, actually I regard it as more valuable to the people of New Bedford. PH-29

The Acushnet Sawmill, if you look at that property on that map. It sits in the Town of Acushnet, but its front door faces New Bedford. I think the people who use the Sawmill in the future are most likely to be people from New Bedford. I think it meets all of the criteria you've heard the Mayor describe tonight. It should be the leading criteria here. Beyond the Sawmill projects, I can't think of a better compliment, a better use of the remaining Trustee Council funds than to fund the City's Riverwalk. If you look at the bottom of the map here, the Trustee Council has invested heavily in the purchase and restoration of the Marsh Island property. Marsh Island is another area that sticks out in the middle of the harbor that's being open to public access and has amazing restoration of salt marsh happening: that is at the southern end, the Sawmill at the northern, the natural link, the obvious link, is to link these with the Riverwalk.

We believe very strongly that you can fund the Riverwalk and the Sawmill's Restoration and Expansion with the $6 million. I think that comes from a partnership between the Council, the City and the Coalition. We are very eager to get into the details of how to make that partnership work. PH-28

And in order to focus all of the remaining funds in this upper area of the harbor, I have to join with everybody else who you have heard from tonight and please reject the Round Hill Salt Marsh and the Tern Restoration projects. These projects as everybody has said are very important, but they are far from the affected portions of the contamination and shouldn't be part of this round. Just last week a $6 million settlement for the 2003 Bouchard Oil Spill natural resources damages was announced. That is a very obvious source for projects like that that are in outer Buzzards Bay. I hope that we can look towards those and not just do the limited outcome for Round Hill, but do the whole Round Hill project. That's a great project that should be funded, but just not here. PH-9

Just in closing, Mayor Lang mentioned it's going to be decades on the current clean up timeline to restore this harbor. To where it's safe, where people can actually wade in the shoreline and fish. The Sawmill property can be open and ready to the people of New Bedford in a year. We should make that opportunity available to them as soon as possible and at the same time we have to also be thinking forward and find a way to build this Riverwalk so that it can be a connector for all future uses in the harbor. Ultimately people care about and fight for waters they know and love. One of the biggest problems facing New Bedford today is fewer and fewer people know it and very few people love it. We have to change that. I hope is with those people, the future of this harbor is, which is in those people's connection to it, I hope it's those people you think about when you reconsider your funding proposals this round. Thank you. PH-28

Acushnet Town Administrator Alan Coutinho:

Good evening and thank you. My name is Alan Coutinho and I am the Town Administrator from the Town of Acushnet and I'm here this evening on behalf of the Board of Selectmen. Back in March, the Board of Selectmen unanimously voted to support the Coalition's two projects in Acushnet and they've asked me to come here to explain why. The last thing the Acushnet Selectmen or the Acushnet residents want to do is be pitted against New Bedford or its residents. We depend on New Bedford for a good deal number of services and we work closely with them on many, many items.

The reason the Board of Selectmen supported these two projects, Acushnet does not have a project that we are asking for funding for. These two projects really show the things that the Selectmen are interested in; it's regionalization. As Mr. Rasmussen just said, the Acushnet Sawmill project is in Acushnet, but the road leading to it is in New Bedford. The New Bedford residents will benefit from that probably, as stated, more than the Acushnet residents and we would love to have the New Bedford residents come in. The other piece that they are talking about LaPalme Farm will provide access PH-30

to the Acushnet River and as you know is as polluted as the harbor was.

So the Selectmen want everyone to know they are in support of this project, but clearly they were not trying to alienate New Bedford or any of New Bedford's residents or anyone else. We thank the Trustees for consideration of these two projects and we don't envy your tough decisions. Thank you.

Bill Griffin:

Thank you. As a change of pace a bit, I am property manager for Round Hill which is, if you don't know, a 93 unit residential community which is a direct abutter to the proposed Salt Marsh project.

I've only been on the job for three weeks. The last thing I want to do is to start my career at Round Hill being in conflict with the Town of Dartmouth. But I must go back to a letter, which I will provide to you, back in June of last year where after a presentation on the proposal, the then property manager set forth about four pages of concerns about the project and its potential impact on Round Hill, the community, the properties, the golf course. His concern about storm surges; the impact of that project on what might happen as a result of ground water levels; his concern with odor. So there are a lot of concerns that were expressed at that time and as of now there aren't any real answers that will bring any level of comfort to the community. We wanted to make sure that you knew those concerns existed then, they exist now and we'd like you to consider that as you move forward. Thank you. PH-31

Karen Villandry:

First of all I would like to take a more simplistic approach, but sometimes when we get so wrapped up in all the specifics, we forget about the simplistic direction that was given to this group – The New Bedford Harbor Trustee Council.

The material that I'm reading from is actually from your website – The New Bedford Harbor Trustee Council website. This particular part that I'm reading is under purpose and need for action, and this is Chapter 1, Part 1, the proposed action Environmental Restoration of New Bedford Harbor Environment. And it goes on to say that Natural Resource Trustees may seek monetary damages or compensation from polluters for injury, destruction, or loss of natural resources resulting from releases of specified hazardous substances. These damages which are distinct from clean up costs must be used by the Trustees to "restore, replace, or acquire the equivalent of the natural resources of the restoration plan."

Further on it says the Trustee Council proposes undertaking environmental restoration in New Bedford Harbor and the surrounding environment in order to restore natural resources injured by PCB releases, restore human uses of natural resources, such as fisheries and public access, and to "improve aspects of the human environment of New

Bedford Harbor that have been degraded by the Harbor contamination."

Notice how many times the word New Bedford Harbor or harbor is being used regarding appropriating this particular amount of money for clean up and restoration? PH-32

Now over on Chapter 2, Part 1.1.1, under definitions; the definition under injury: immeasurable adverse change either long or short term in the chemical or physical quality and or the viability of a natural resource resulting either directly or indirectly from exposure from a discharge of oil or release of a hazardous substance, or exposure to a product of reactions resulting from the discharge of oil or release of a hazardous substance. As used in this part, injury encompasses the phrase injury, destruction and loss. Now, there's a note here that says CERCLA does not include oil, natural or synthetic gas within its definition of hazardous substances and it says that Massachusetts General Laws, Chapter 21E, does include oil within its definition of hazardous substance.

Now the reason I am mentioning this, is again, please take a common sense approach. Over in Marion and Mattapoisett, they were adversely affected, even West Isle and Fairhaven, by the Bouchard Oil Spill several years ago. There's no doubt in my mind and many other people that this needs attention. However, not by the money that's appropriated for New Bedford Harbor. That money for Marion and Mattapoisett needs to come from the settlement of the Bouchard Oil Spill and if they do not have the resources to take care of that, then they need to go after that. That is an entirely separate project, okay? PH-33

Now we have Round Hill, okay, and certainly with all due respect to the gentleman that's here. Please tell me how many people in the inner city of New Bedford, how many of these kids play golf? How many of these kids even know what a golf course is? Okay? And we're going to be concerned about a restoration project for a marsh around Round Hill in a very affluent area, extremely affluent area, of South Dartmouth? We should be concerned Nonquitt, Padanaram, about multi-million dollar houses with enough taxes and revenue coming in that they can fund their own projects very easily. Again, I'm taking you back to why this Trustee Council was formed. It was formed to restore New Bedford Harbor; the quality of life; the habitat in New Bedford Harbor. PH-34

It's also interesting to point out to – we have the number one fishing port in the country. . . In the country! So all the more we need every red cent to be spent on this New Bedford Harbor, which in my opinion extends from where the Aerovox plant used to be all the way over to Fort Rodman. That's New Bedford Harbor in my book, alright? So, I feel that his money, every penny of it, needs to be spent on that Riverwalk project and the shellfish beds. And those other two projects, or any other project for that matter, especially Marion and Mattapoisett and especially Round Hill, junk it! PH-35 PH-2

Thank you!

John Strittmatter:

When I read in the newspaper that there was going to be some money going out to three islands out in Buzzards Bay, I was a little disappointed because they were going to try to help and restore some land for some terns, which are animals, I mean they're birds. At the same, I thought to myself, well most of this money should be coming to New Bedford to restore the New Bedford River, especially around the Riverwalk. After all there's a 100,000 animals in New Bedford, they're called *Homo sapiens*. Well we just mentioned about Round Hill – I also have a degree in biology and I know that marshes are good for spawning, but again, which was also mentioned, there a lots of rich people out there. They can afford to take care of their own marshes and I'm sure the PCBs never contaminated one ounce of that land out there because it all stayed in New Bedford.

PH-36

PH-34

In regards to the woodland area, I just want to point that out. Even though it would take from some of the funding from the New Bedford Riverwalk, I'm going to name a couple of places here that are free. I don't think there's anybody in this room that knows about them except me. There was a place called Trout's Hole, there's another place that we used to call Bloodsucker's Hole and there was a place that was called Coney Island. These are all places when I was about 10-, 11-, 12-years old, we would go swimming up near Acushnet River – way up the river. It's a beautiful, beautiful spot up there and if they ever cleaned that up and cleared that out, it would be such a wonderful joy to everybody in this area.

PH-37

It's difficult to really look at the whole projects that you have, but certainly New Bedford should get the biggest share of everything. At the same token, I do wish that, in the future, you could get a lot of money to repair that river and clean up the woodlands up and around Acushnet because it is a joy for everyone. Thank you very much.

Ed Ilsley:

I'm going to show it in just a little bit. I'm a citizen of the City of New Bedford. I've also been lucky enough to serve on the Harbor Development Commission for about 20 years, but I come here not representing the commission. I asked them specifically if I could come here representing myself because I was full of bile and I wanted to spew it on you guys. And I will tell you that frankly.

I am affronted as the Mayor had said. He said the citizens of New Bedford are affronted and outraged and I am affronted and I am outraged. I'll begin with our favorite project, the terns, which you are going to pretty much turn into the symbol of this entire matter of things don't get changed. If you've never been in the city of New Bedford during the last two weeks of August and first two weeks of September, you will find it's loaded with bait fish in the upper harbor. You'll find all those terns from Bird Island and out by Gosnold here as well and they do two things: they gorge themselves on the bait fish and they defecate. And they defecate in the city of New Bedford, on the boats on the

PH-12

moorings in the city of New Bedford and all throughout the harbor. Now the money that you are spending is because somebody else came in to the city of New Bedford and defecated in that river. For a dime to go to those terns, I'm outraged and I'm affronted!

Jeff Pontiff:

I'm Jeff Pontiff. I am a resident of New Bedford and I'm the owner and operator of Whaling City Launch Service which is a water taxi harbor tour business in New Bedford Harbor. I'm a little embarrassed that I missed the solicitations because I would have gladly wanted participate and collaborate and that's what I'm doing tonight on the Palmer Island proposal. Back in 1999, we had just our first master plan here in New Bedford. And in that master plan, we designated Palmer's Island as a green space. I'd just moved to New Bedford and in that same master plan, that harbor master plan, it talked about creating a water taxi service, and a launch service and moorings, etc. So I utilized my own money and I started that business. So on that first year I saw what an attribute Palmer's Island was in this harbor. It was certainly a jewel in the crown. So I put forth the proposal in 1999 to provide landing facilities on Palmer's Island. Well, it was rejected and I was told, informally off the record, that the Council felt that private enterprise was going to benefit too much from that proposal. So I swallowed hard regardless of the fact that both the state and federal government were funding water taxi services. And I've continued to do this and we've just finished our 12th season and I'd like the record to speak for itself. We've now connected and reconnected over 27,000 passengers out on New Bedford Harbor. And I can tell you, and I've been around the horn a bit, there's nothing more rewarding for me. It hasn't been a monetary reward, but it certainly has been an emotional one when an 80-year old woman gets off that boat with her two grandchildren and says, "You know I've lived in New Bedford my whole life and I've never been out on this harbor". This is fantastic and she brings her two grandchildren down there. So I find that very, very rewarding. I would ask the Council with all due respect to reconsider the Palmer Island proposal. Whether the people get out there by boat or they get out there by a bridge from the hurricane barrier that is truly a jewel in the crown. I know of nothing else that could expose masses to a destination in the harbor where they can view the beauty of this harbor. So that's point one. PH-14

I'd also like to talk about a separate proposal. I wear another hat. One that I'm not quite as emotional over and that is I am a commercial real estate broker in New Bedford. I've been involved in brokering the sale of three of large mills up on the Acushnet River. I specialize in waterfront properties and I can tell you again in support of the harbor, Riverfront Walk, how critical that is for funding it. I know the developers that I've brought in to town. I know that they haven't been made any promises, but the city has done an excellent job in negotiating concessions from these developers to provide public access to that Riverwalk. If we don't fund that, those developers are going to proceed with their projects, which are great projects for reconnecting and revitalizing that whole area. But they are going to continue to take that as private land and we'll miss our opportunity to create that Riverwalk, and again, another great PH-3

opportunity to connect the masses of our city to that beautiful upper harbor. Thank you very much.

David Cressman:

Good evening. I am the Executive Administrator for the Town of Dartmouth and I'd like to take the opportunity tonight to read a letter on behalf of the Town of Dartmouth, myself and the Dartmouth Select Board. We would like to thank the New Bedford Trustee Council for selecting the Round Hill Salt Marsh Restoration Project as a preferred project for funding through Round IV of the Damage Assessment, Remediation and Restoration Program for the New Bedford Harbor Environment and for the opportunity to address the Council. While the Town of Dartmouth understands New Bedford's disappointment concerning its projects, the Town of Dartmouth's application is consistent with the New Bedford Harbor Trustee Council's Environmental Impact Statement and Restoration Plan because it restores and, more importantly, it replaces the equivalent of the natural resources injured by PCB releases in the New Bedford Harbor as the harbor is defined in the report to include areas of Dartmouth from Mishaum Point northeastward. PH-38

The Town of Dartmouth has a long-standing commitment to projects that provide environmental benefit to the citizens of Dartmouth and surrounding communities, and that contribute to the environmental health of Buzzards Bay, the New Bedford Harbor Environment and in cooperation with the City, the cleanup of Clarks Cove.

This project, as has been noted tonight, consists of the construction of the previously selected design alternative that it was funded under this program in an earlier round that will restore up to 6.9 acres of coastal salt marsh through the removal of significant amounts of fill material and re-grading to historic marsh elevations at the Round Hill Salt Marsh. With funding from other resources, an additional five acres of salt marsh may be restored. This site presents a superb – and quite rare – opportunity to restore a large area of contiguous, historically filled salt marsh and barrier beach coastal ecosystem that is publicly owned and remains vacant of permanent structures. Through the removal of fill material, re-creation of salt marsh plain, and excavation of historic tidal channels, this project could significantly enlarge this valuable tidal system and greatly enhance the many natural functions and values of the marsh. A restoration project at this site would also provide valuable stewardship and educational opportunities due to its highly visible public location. Additionally, if the project's soil investigating shows some of the excavated material is suitable to be placed on Round Hill Beach, the project will have a secondary benefit of beach nourishment.

The Town of Dartmouth strongly supports and endorses this project and urges the Council to fund the project in its final decision. Thank you. PH-39

Mike O'Reilly:

Thank you. I am Michael O'Reilly. I am the Environmental Affairs Coordinator for the Town of Dartmouth. I am the point person on this project and I would like to thank the Trustee Council for the opportunity to comment and also to comment to the public and my colleagues in New Bedford.

I would like first of all to explain why NOAA became the project lead on this project. I originally was the project lead on this project as I have been on several salt marsh projects in the past. In working with NOAA, when we put this original proposal together, it was at a time when my staff was cut. Knowing how much work all of these projects are, I approached NOAA and asked if they would take the lead in the project and I would do all of functions that I had in the past. But I just didn't have the manpower to really take the lead so this project was born in Dartmouth. It is based on projects that we've done before in Dartmouth and it builds upon a project that we have already completed. So that is how NOAA became the project lead. PH-39

I did submit a letter by email to the Trustee Council this afternoon and I would like to read the body of that letter. First of all I'd like to provide the Council and the public and my colleagues in New Bedford with a little bit of background.

This project began with funding received from the Trustee Council in round three of their funding cycle. With that funding we did the preliminary work necessary to assess the restoration potential of the project and make this project ready to go directly to final design, permitting and construction. Completed at this point are: the identification, evaluation and mapping of environmental resources and physical site conditions; a hydraulic analysis; a wildlife habitat evaluation; base mapping; a cost analysis was done and conceptual plans prepared that specifically describe the salt marsh restoration options. The results of this Feasibility Study were the basis for the current submittal. In preparing the current proposal, the goals as described in the Environmental Impact Statement and Restoration Plan were basis for everything we did and we feel that we meet those restoration goals.

In a larger sense, the functions and values that salt marshes provide are well known and there are no artificial geographical boundaries to those benefits nor do the fish, shellfish and other natural resources dependent on marshes know any artificial boundaries. Each and every healthy salt marsh contributes in a very real and significant way to the New Bedford harbor environment and to the people who use the resources for recreation and enjoyment, and is especially beneficial to the people who depend on it for their livelihood. Restored environmental functions and values immediately outside of the hurricane barrier are as equally important to the New Bedford Harbor Environment as restored functions and values immediately inside the barrier. But it's more than just that. The EPAs Record of Decision specifies dredging of salt marshes within the areas directly impacted by the contamination where PCB levels exceed 50 ppm. In addition it will be a number of years before these areas will be dredged and restored. Even then some salt marshes will remain relatively contaminated (0-50 ppm) after clean up is completed. PH-40

It is therefore very important to restore or enhance other marshes within the harbor environment to compensate for the lost benefits that the directly impacted marshes provided. I'd also like to point out that the Round Hill Salt Marsh Restoration Project is #1 is entirely on Town property and it is not a project that merely improves the diminished value of an existing degraded marsh, similar to projects that we have done in the past, it completely reconstructs a marsh that has been lost for decades because it was filled in the early 20th century. All the functions and values will be restored, not just enhanced. PH-41

So, we find ourselves in the position of having a valuable, viable project that will produce significant benefits to the New Bedford Harbor Environment, and the money to pay for it. I submit that this is a unique opportunity not to be missed and that the benefits of this project will be realized by all communities that have been affected. PH-38

I'd also like to add that in developing this project, the goal was to provide environmental benefits to the harbor environment and as I stated before, I think we've done that. In addition, we as project managers have encouraged the participation of adjacent property owners. I know Bill from Round Hill spoke earlier and we did that right from the very beginning of the project. The Round Hill Condominiums Association has been involved in evaluating the proposed design from the early stages of the project and they have hired their own consultant to review the design to insure that the design has no adverse impacts on their property. PH-42

I would like to stress that it was never the goal of this project to somehow divert funding away from our neighbors and colleagues in New Bedford. I wish there was enough money to fund every one of these projects. Every one of these projects has merit I believe, but our eyes were strictly on the environmental prize to the benefits of the New Bedford Harbor environment nothing else. Thank you.

Steve Cassidy:

Long time no see. You have aged well. My name is Steve Cassidy. I live in Dartmouth. I was involved with Jack back at the first round. Way back in ancient history about 15 years ago and we had not 15 projects back then, but something like 56 because we had a group called – what was it called, Jack? CRAB?

Jack Terrill: Community Restoration Advisory Board.

Steve Cassidy:

And the acronym was CRAB and Jack thought that was a good name for us. Anyway, this group and everybody here seem to be hydrophobic. You're hydrophobic because every project has to do with land and none of it has to do with water. Not one of these projects, we've got Riverwalks, we've got salt marshes, but no water. What's wrong PH-43

PH-44

here? I'll tell you what's wrong. None of you are tackling the major problem that has to do with New Bedford Harbor. New Bedford Harbor is polluted with PCBs and will be for a long time to come. But back at the very beginning when Jack and I met, I advanced three projects and they were regarded favorably, at least one of them was. The three projects were these. As you know the hurricane barrier prevents water circulation. It has a 150 foot opening and then it has two box culverts on the New Bedford side and unfortunately, we don't get good circulation from that amount of opening, okay? One of the projects that I proposed was that we make a bigger box culvert on the Fairhaven side. And the reason for that was that when the dike was built, it was a bypass channel that nobody seems to know is there and I'll pass this out to you later.

Jack Terrill:

Steve, before you go on. We did a feasibility study on that with the Army Corps. and others and we do have the results of that which I can forward to you and I will also get it posted on our website next week. So that was done a number of years ago and it determined that it would only be a local effect if there was another box culvert put there. It would not benefit the whole harbor, but rather just a local effect through the modeling that they did. So that was – we did go ahead and do that one.

Steve Cassidy:

Okay, Jack, and then let me go on to my second one. At the same time this boxed culvert would be put in, we would also put in a pipe, because when you cut through the dike and put in a box culvert, you got to put in plenty of cement and so on and so forth, and in that foundation there would be a pipe that would go through there that would eventually connect out with the Fairhaven sewerage outfall which is in the inner harbor. And then when there was money enough, the outfall would be run out the eastern bank, just to the east of the channel and you would have a normal outfall out there, just like you have in New Bedford and you have in Dartmouth and a lot of other places. Now that would have solved the problem of Fairhaven's sewerage outfall being in the harbor. That outfall brings in warmer water and it's effluent is not perfectly clean. I wouldn't want – the seagulls eat just over that outfall every day. Any time you go over there on a calm day and you look out between Hathaway Brailey's and Fairhaven ship yard, you can see a small upwelling out there where seagulls are having their lunch. Now if we had put that in 15 years ago, a lot of our problems would have been solved right then, but we didn't and I still don't know why because we were never given good engineering reasons why it couldn't be done.

Jack Terrill: I need to remind you that this public hearing is about the Round IV projects.

Steve Cassidy:

I understand that. What I'm suggesting, Jack, and I suppose this is contrary to all

protocol and everything else. What I'm suggesting is that the three projects I'm talking about be resubmitted.

Jack Terrill:

No. We have a funding round that we are looking at right now. We have 15 applications that were submitted under that funding round. We are doing things differently from the way we did it back then in the early rounds, where we are not doing ideas, we are doing actual applications for grants and that's what all these15 are.

Steve Cassidy: I thought these were applications?

Jack Terrill:

No. That was back when we were doing restoration ideas and then those we turn into projects, if they went through feasibility.

Steve Cassidy:

Now we're dealing with semantics again, Jack. Call it by another name, it doesn't change anything. You and I had our go around back then and now I am back again. Okay? And I still think these projects have merit. The reason they have merit is because they will get the Town of Fairhaven off the hook. The Town of Fairhaven is going to be decertified because their outfall is inside the harbor. Now what's going to be done about that? Are they going to send the sewerage to New Bedford is that what I understand the scheme is? What are they going to do? Eventually you are going to have to get an outfall outside the harbor and the way to do it is the way we suggested 15 years ago and we never got any real clear answers about water circulation and so forth. We never got them and we were greatly frustrated at that time and I still am. So there's the blast from the past. As far as PCBs, I've been in that water for 50 years – marinated in it, okay? And it's not bad at all – not bad at all. I've made my protest. I'm going to submit this to the Mayor – give this to the Mayor. I have a little brochure I've prepared. They bypass channel is still there and I don't see why we can't use it. From an engineering point of view, half of this is idiocy. You're walking around the fringes and you're not dealing with the problem. Thank you very much.

Jack Terrill: I'll get you the modeling results.

Tommy Grace:

Good evening everyone, Jack, Chris, Lisa and Molly.

I didn't know a lot about this particular project until I read it in the paper and my wife informed me a little bit and I read some of this and what I've been hearing here about Ground Zero and stunted growth, and the lack of appreciation of the river and how we

should enhance a nationall resource and fundamental fairness, 30 years instead of 15 years in the harbor clean up. I've had some experience with dredging and PCB's. I've worked in the Boston Harbor project for 7 years doing transportation to and from Spectacle Island so I equate that with the Palmer's Island. When Spectacle Island was cleaned up, the water changed dramatically. The dolphins came back into the harbor, fish came back. We even had a 50 foot whale shark go around the island and then go back out. It makes a difference – clean up is important. Like my friend the diver said, you're doing a lot, but you're not doing anything in the water. PCB's polychlorinated byphenyls – they have to be ingested. Once they're ingested, they leave a trail of deadness in your body. If you have a cut on your foot, it goes into your bloodstream. Wherever that PCB goes, it leaves a trail of death – dead and it cannot be removed.

In any case, my childhood, some of it anyway, I could stick my feet in the mud. I've been out to Little River in South Dartmouth and the sand is nice and soft. You stick your toes in it and you wiggle it around a little bit. You can't do that here. You know not to mention the glass and everything else. I don't understand why after all the analysis was done, and dredging – we look at charts like that in much more detail and I'm sure you've seen them, the computer enhanced models and all the new stuff they do nowadays – it doesn't have to take 30 years. They are doing remarkable stuff. I've been up at the GE Hudson River dredging project. We had 26 dredges removing and replacing what was taken out and planting and restoring the shoreline.

I believe that you should be supporting the three projects that the Mayor outlined the Riverwalk, the Palmer's Island and especially the Shellfish Restoration. How long has the inner harbor been closed to shellfish and fishing? Whenever I see one of these immigrants catching a fish, I yell out to them, "Don't eat that – don't eat that!" They don't know. Outside the harbor it's been closed for 25 years now? That's just awful. If anything, we should be concentrating on the new open areas and try to replenish them. I think that's important. Give it a chance and circulation inside the harbor is good. I believe that maybe somebody should propose in making the gate bigger. Maybe we can get a little more flow. We got to have some oxygenation in there. You got a lot of stuff coming down from the river and I'm sure it's great up above where Aerovox was but it must be other money for that. You need to restore the damaged areas first – the Ground Zero and I think that's pretty much all I have to say except while I was sitting here I was thinking about Tom Sawyer - you know going down the river on the raft and Mark Twain. Mark Twain, I guess when he wrote his book he said release this in 100 years. And I said, "Why did he do that?" He had a humor about him. It was like a fresh humor, you know, not unlike some of our sharp wit with the quick politicians we have these days. I think that he wanted to preserve that freshness and reintroduce it 100 years from when he wrote it so that we would be reacquainted with how we could deal with panels like you.

PH-2

PH-44

Jim Kendall:

Thank you, Jack. It has been a while. As a matter of fact, it's been something like 15

PH-45

years. I, too, was a CRAB. Somewhat has been stated I haven't changed much either. But neither has the remediation work that's ongoing. It's been a problem for the last 15 years. It continues to be a problem because they don't address the problems. They kind of work around some of them, some of them do get taken care of, but some of the most important ones tend to get lost. We've been talking about terns. We've been talking about salt marsh restoration. We've been talking just about everything under the sun that comes up when money is available and, unfortunately, most of the money is never enough.

I was born and raised on the river. My entire life has been spent on the river in one fashion or another. I sat on the CDFs. We had our plant. It still remains in Eastern Fisheries built upon one. Our former fishery plant was down by South Terminal which abuts that whole area where everything gets swept into and if you're going to look for polluted areas these are the areas that need to be dealt with and everyone seems to shy away from taking on the worst of the worst and that's what it is.

Until this day you cannot go down and access the shellfish, which are bountiful. Shellfish seem to like the PCBs. The problem is you can't get any benefit from them because you can't eat them because humans aren't as lucky as the shellfish are. They thrive in that corner of the river which is the southwest corner there and all you have to do is check out the police log and you will find out how many people are going down there and harvesting these shellfish illegally. And the game wardens and the police chase them constantly and they're charged with it. Some of them are doing it because they don't know any better. Some of them are doing it because they have fewer choices to choose from and that's one way of obtaining food. Logically, it's off limits to the majority or the remainder of the public. It's been closed for years. Now we've heard today that if you get north of Tarklin Hill Road or Wood Street, it gets to be a little bit utopia-like. You have striped bass chasing bait fish. Perhaps you could even clam up there because everything is being swept down river. The problem is the buffer between the hurricane barrier and let's say Wood Street or Tarklin Hill - That's the sewer part. If you want to swim threw the sewer to get to the utopia, that's fine, but I rather clean up the sewer and make something that's more useful to the general public as a whole. Now, I heard you say earlier, Jack, that this is a public hearing and they possibly may review some of the proposals that have been accepted up to this point and where others have been falling by the wayside – will they be reconsidered for reconsideration or is this just another public hearing as many of the NOAA and National Marine Fisheries Service projects are where you get a public hearing, you let them vent and then they'll go away? PH-46

Jack Terrill:

No. All comments heard tonight, all comments that are coming in writing will be considered and then a decision will be made by the Trustees based on what they have heard and the legal guidance that they have and we have to go through Department of Justice and the court and everybody. So, it's a process, but, yes, we will be considering

all comments heard.

Jim Kendall:

Well, I appreciate that. You've heard about the Riverwalk, Palmer Island, Shellfish and you heard about Steve Cassidy's boxed culvert. I, too, am one that believes the boxed culvert could help the flushing of the river just like you flush your toilet. We can pretty this up as much as you want. We can make it look nice. The fact is we're supposed to remediate the problem that exists in the river. We've been doing that in dribs and drabs. When I first got on the CRAB committee, 30-40 years, I said, "That's ridiculous, who takes 30-40 years to do something?" Here we are doing 20 years and we're just looking at the last of the proposals, so now I see why 30-40 years. It's this whole process. PH-45

Round Hill keeps coming up and people have stated it's a very affluent neighborhood and so forth and so on. That may be true, but that really isn't what the issue should be. The issue should be what are we going to remediate? They are going to fix a culvert that runs through there that disrupted the original salt marshes. We've already from the people who are testifying in favor of it. What we haven't heard and what I believe I understand to be the truth because this is what was told us early on, is that was self-inflicted. The people that owned the property off of Colonel Green's neighborhood actually redirected the original stream that they want to put back. Now why should the people of New Bedford, the long-suffering people of New Bedford with the river problems be the ones expected to forego any changes that they can make so that they can go back and fix the problems that someone else is making. To me I don't understand how that passes the acid test. And it's done is continuously for 15 years that I know of. CRAB voted against that wholeheartedly if I remember correctly and I'm sure there are records to back me up. We were supposed to be an advisory board and once we started speaking up against issues like this, we basically no longer existed and I've seen that time and time again within the auspices of NOAA and NMFS. And I haven't been one to e shy to say this, and I've said it over and over again, wonder why it's still ongoing? Why is New Bedford fighting and picking on NOAA? Why are we picking a fight with NMFS about the fishing? Well, this may be payback, maybe not, but is sure makes you wonder if it is or not. PH-47 PH-48

The birds – The birds have been a concern for years. When they wanted to consider putting windmills out in the bay, which if it's done right, I'm in favor of it to be honest with you. I was opposed to the way they did it over in Nantucket Sound because they used the Federal Government to force their way into it. Buzzards Bay was being considered. It made a lot of sense. They came in and asked the people who are here: Do you have a problem with this? How can we fix it if you do have a problem? That to me is the way to do business. The birds were a major issue. They went out and did surveys. The birds are still an issue. I put forth to you that it's not the PCBs that are causing the problems to the birds, which are rebuilding nicely ever since we did away with DDT. I believe that the PCBs got a lot of the credit for what the DDT had done over the years PH-49

and now if the birds are rebuilding as these surveys seem to show, because they won't build the windmills because there are too many birds that will be impacted. You can't have it one way and then turn it around say it doesn't exist on the next time you want to use it for an argument.

Also, through some of my older documents it shows that the boundary lines that were supposedly up for consideration basically ran from Wood Street down to the mouth of the harbor, down beyond to the line that ran across either form Dartmouth or South of Fort Rodman across the Fairhaven side and yet some of these projects keep coming back from beyond those areas. Why this has been allowed to happen, I don't know. PH-50

Jack Terrill:

Let me answer that right now because the actual area that was defined in the settlement agreement was the Acushnet River watershed. There was the inner harbor area which was defined up to Wood Street, but it is the entire Acushnet River watershed and then out into the bay with the area defined by area 3. That is the actual definition.

Jim Kendall:

Alright that is the actual definition. The problem is these were supposed to be rated by the impacts and by the curative powers that you would have. And I submit to you that something that is within the Acushnet River watershed up, let's say, up by towards Freetown, which is still part of that watershed, I believe, would have minor impact on curative powers that are going to take place if you do something up there for the PCB problem in New Bedford Harbor. You know, you can dress up a pig, but it's still a pig. That's the bottom line and they are going to continue to deny the due process New Bedford is entitled to and I'm not speaking for myself because I don't have a dog in the fight except being a New Bedford citizen and having my family born and raised in this city as many of the other people are here. So, we'll find out if the process is working or if the process is still broken. Thank you. PH-25

Matt Morrissey:

I'd like to first thank the Trustees, Molly and Lisa and Chris for being in New Bedford and allowing us to present some important perspectives as you consider the final decision of what projects to grant funds to.

I would start by saying that in the City of New Bedford, we really sit on both sides of process. On one side we respond to process and, in fact, over the last 4 ½ almost 5 years now, the Lang administration has done the very best job that it can in keeping process as open and as transparent as possible to insure that the best ideas from anywhere in the city are given fair hearing. And indeed if those ideas are appropriate, are pursued with vigor through whatever department or community group is appropriate. In addition, the city has responded to many, many different opportunities for grant

funding. In fact, over the last 4 years, the city has attracted in non-schools grant funding over $57 million in public support for various projects. That public money has been leveraged to attract $340 million in private investments since 2006. I can tell you that, that record is important in this context because this process has lacked the kind of transparency, the kind of openness that is critical to allow people a sense of confidence in government. We do not feel there was a level of openness, a level of core and fundamental information that would have benefited all of the applicants and this process and the outcome of this process. And the kind of frustration that you're hearing is as much about the process as it is about the preliminary decisions – Important to start with that.

The benefits of the three New Bedford projects that I will take a moment to represent are several. I don't want to retread over some of the very strong comments that have already been made. But common sense does dictate that when you look at that map, the area of injury sits in the center of the Acushnet River and over 25,000 people live within a short or a middle distance walk from that river. A 1.6 mile Riparian Restoration project that is short hand for this Riverwalk project that we have been hearing about this evening really represents the crown jewel of allowing people in the City of New Bedford and in the region an opportunity for the first time in a 100 years to experience the nature that exists in that area. And indeed the Trustees' good work along with the Coalition of years past to help preserve the other side of that marsh land of Fairhaven and Acushnet side indeed has enhanced the prospects of the Riparian Restoration project on the western shore of the Acushnet River to be the beautiful and successful project that it can and will be. In addition to the basic environmental opportunities of reestablishing some of the native vegetation that once existed there and cleaning up the water's edge. The additional benefit is that in the city over the last several years has, as Jeff Pontiff suggested, has indeed attracted a tremendous amount of investment into that area of the city. Unlocking what was a tremendous albatross, a tremendous embarrassment to the city and has begun to turn that into, not only a reclaiming it as a job center in the City of New Bedford with over 1000 people being employed in mills along that riverbank still, but also a residential center – a new residential center with two mills already now renovated to the tune of about $50 million with a mixed use development at the base of Coggeshall Street for $35 million and a new grocery called Market Basket. And as you travel northward, each of those mills, all but two now, have been sold recently to interested parties that believe in the viability of first the city, but then, secondly the attractive waterway. When one attracts the public to a once damaged environmental or damaged resource, as you well know follows is additional public environmental awareness and public support for things like CSO, reclamation and the enhancement of the public sentiment to accelerate the cleanup of the degraded resource.

PH-3

By degrees I feel very strongly in the three New Bedford projects. The Riparian Restoration, the Palmer's Island restoration project and the Shellfish Restoration project and I would also add that, certainly as the Coalition has pointed out, when you continue northward, the projects that are there do enhance the Riverwalk project in the upper harbor. The issue that I believe is very important is this. We don't have enough

PH-2

money. Even if each of the New Bedford projects are value-engineered and we squeeze as much as we can out of them, the challenge still exists that we don't have enough money to do them all. And I do not believe it is appropriate in any way, to sacrifice the area of greatest injury and greatest environmental damage and I don't believe the people of New Bedford deserve to be shunned again by preventing the appropriate funding of the three projects in the City of New Bedford to do anything else. And if there was more money, that would be terrific and I would in fact support the Coalitions projects to the north. They do enhance our project and I do believe the citizens of New Bedford would enjoy them, but not at the expense in this final round of the projects for the City of New Bedford. Thank you.

Nancy Durfee:

Hi. I am Nancy Durfee. I am with the Southeastern Regional Planning and Economic Development District and I am here tonight representing Steve Smith's comments that he made to me this afternoon. I'd like to say thank you for allowing the public to comment on this application process. It is very important as well as you can hear all of the passion from everyone from the city and from other places about their projects and about the river. I think that's a wonderful thing.

SRPEDD feels strongly that the area that is most damaged by the contaminants, by PCBs, should be receiving the funding. About 3 or possibly even 4 years ago, I had the pleasure of getting a presentation from the staff and the city and they were eloquent. They talked about the plans and the vision and I was impressed. I was impressed because their plan was to bring people back to the river. They had these plans probably long before I came along on a South Coast Rail project and as Matt pointed out, the largest portion of people affected live in this area. He clearly pointed out on the map that you have the highest density right at that area where it had the most contaminations. By allowing the people to come back to the river, it gives them appreciation that puts eyes to the prize and it gives them a sense of belonging to their river, to their community and it offers them solace, recreation, which the city is working very diligently to bring the community rowing back to the river. I have to say it has been wonderful to have the opportunity to participate in that process. PH-25

Through the South Coast Rail project, we've offered technical assistance to all of the communities and the Town of Acushnet approached us on doing a Riverwalk project and seeing how the communities – the Town of Acushnet, the Town of Fairhaven and the City of New Bedford could work together in creating this Riverwalk vision that New Bedford had already started what the two towns embraced as well. And this Riverwalk would embrace the whole entire upper area of the Acushnet River that was affected by these PCBs. So, given that I just didn't know if you were aware that that project has already begun. It's not up to anywhere near the level of funding that is necessary to create the Riverwalk, but it is valuable nonetheless that you know that it is in existence. So again I would like to thank you for hearing comments tonight from everyone and from myself. Thank you very much. PH-3

David Wojnar:

Thank you, Jack and the members of the Board of Trustees. I am here to support three things. First of all the Coalition for Buzzards Bay projects they have submitted although it's not in the Town of Acushnet's proposal, the proposals are located in the Town of Acushnet. I felt that throughout this process ramping up to the decision and ultimately the final decision, it's gotten a little bit too political, too much, there's a lot of rhetoric going around. So I felt that I do owe it to the residents of Acushnet to come here and support their efforts. PH-30

Secondly, I'm in support of the City of New Bedford's projects. I think Mr. Morrissey was very articulate. I wasn't here to hear the Mayor's presentation, but what Matt has said makes a ton of sense. First and lastly, we are here to support transparency in the process. I agree. Let's make the scores public, the criteria public and let's have a public discussion – put it in the newspapers – let the public decide. Let the public see what's taking place. I suspect at the end of the day that you folks have followed the process that you have done so knowing what the parameters were prior to the grant applications, and as you have done with the other awards that have taken place. So, for that and if the Council decides to do a 180 and strip some of the funding of the preliminary decisions, I would ask that you start the process over again so all parties would know what the ground rules are going in rather than the goal post moving as the process unfolds. So for that I thank you for your time. PH-4 PH-2

Jack Terrill:

Thank you. That is the last of the presentations. As I've mentioned a couple of times comments are due by December 10. (Two additional commenters asked to speak.)

Edwin Rivera:

My name is Edwin Rivera. I'm president of Hands Across the River Coalition. I've been fighting this fight for the cleanup of the Acushnet River for almost 20 years now. I had a good mentor that taught me a lot. His name was Jim Simmons. He, and you know him Jack, if he was here he would be doing a lot better speaking than I do. I have a dog fight about the last of this round of funding. There were projects that Jim even put in back in the day that were never funded. Now, one thing, I am going to back the Mayor's proposal for the last of this funding. I, myself, know what is in that river. There's another person here, her name is Karen that might be affected by this river. The restoration of Palmer's Island – you are talking about the birds and the terns and all that – every season, spring and fall – the terns are always going back to this area. You got two places here that are going to be funded in Mattapoisett and Marion. To begin with I thought the Acushnet River was in Bristol County. Now we're funding projects in Plymouth County? Did you guys look at the map, alright? That's not even part of the Acushnet River. You're funding places in the Plymouth County that have no PCB PH-2 PH-51

damage.

Alright, let me get my head on straight here. I've been fighting for the cleanup of the Acushnet River. We have another project going on right now which is called Navigational Dredging. That has to do with CAD cells – that means moving material from one area of the Acushnet River and opening up another part of Buzzards Bay or parts of the outer harbor to put this sediment in. I opposed that to begin with – that's another subject. We had a petition that we passed last year and we got $35 million for the 2009 and 2010 funding of the cleanup of the Acushnet River. We're doing another petition again for maybe the 2011-2012 funding. The thing is it's going to take a long time to clean up this river and the part is it's not just New Bedford, it's also the other side of the river. That's why it's called Hands Across the River Coalition. Most of those areas, the people that live in those areas, are low income people. You're talking about an environmental justice issue. These people are getting left out. These people that are living along this area breathe, eat everyday from their kitchen tables – they open their windows while all this stuff is going on. This is an environmental justice issue. This money belongs to the people of New Bedford not people on Coronel Green's or Mattapoisett or Marion. I back the Mayor on this one. If we have to, he'll get a court injunction or we'll go to Boston and get somebody to get a court injunction. This money cannot be left going anywhere else. Thank you. PH-2

Chuck Dade:

Hi. I'm Chuck Dade and I'm a native and when I was very young . . . First of all, my grandparents are from Fairhaven on one side and the other side are from Acushnet – I mean my great-grandparents. My grandparents lived in New Bedford when I was very young. On this particular issue I agree with the Mayor 100% as far as the allocation of funds. PH-2

It really is ridiculous that an organization called the New Bedford Harbor Trustee Council would be dispensing money to such faraway places. I do think though that there may be a misunderstanding or a misinterpretation from what I can see how the city makes their plan based on what your prescriptions are – I mean it says it's restoration. I've seen it over and over again, but we do have some of that, you know? They have proposed restoration projects. I would say for instance that the Acushnet Sawmill project totally falls within that aspect. If so, I'm thinking maybe in your designation in how you came to your decision perhaps you could change the way it's done. You could expand the designation for that particular project. I personally question about a Riverwalk and as much I have an understanding of . . . there's a tribe in Australia. There's a movie called "Whale Dreamer" and it's about these tribes that talk to whales supposedly, Julien Lennon starred in it, and they got kicked off their own land – their use, their public use of their waterway by the government of Australia. Now they've recently returned and when they got there, there was a waterwalk and they didn't like it.

So, when I'm looking at with Riverwalk here is, it's not restoration, it's a new use. There was never a Riverwalk there before. It's not a restoration. It's not by order of any type. So I'm thinking that rather than you turn this down, or we go to court and spend all kinds of millions of dollars or whatever it is and lose a significant amount of what we could get that maybe we should re-approach how the applications that are made so that we get the full percentage of what we should get in terms of population. The fact that we are New Bedford, PCB contaminant, we should get all the money. It's just the matter of the application – they may have not made out an application that you people find to be acceptable. Well there certainly must be one. So I'm not sure how we get to that point. Whether it happens on your side or the City of New Bedford's side, but it certainly belongs allocated within the scope of New Bedford. And I think that's pretty much – I got a whole list of stuff to say, but as I speak I tend to not say what I thought I was going to say and I say something else.

PH-52

PH-2

What I want to also say in the case of Acushnet in terms of this analogy with the "Whale Dreamer", I really don't think that that beach should be all that much touched. My grandmother lived on that side. I've been down there as a child. I know the area. It's fairly natural except for the PCBs. Now I'm not so sure putting a walkway through the place and bringing more traffic in and taking the one area of the river that's fairly natural is such a good idea, but I do think that expanding the Sawmill area as much as you can with the allocated funding that there is, is appropriate. The Mayor and the Economic Development Council head, here, they seem to think in terms of economic development. They think in terms of developers and so I think that's how they coordinated their application, but I don't necessarily think based on, I'll look on what you're saying here . . . Natural Resource Trustees restore, replace or acquire equivalent of – now there's no equivalent of in history for a waterwalk. So I'm not sure that that is really the best thing to apply for particularly at this time, when that whole area is still contaminated. I would rather see you take your funds and actually spend it for lawyers to sue the EPA so that they restore that place a lot better than they have been. When we consider the billions of dollars that they're allocating for this, it occurred to me recently, I won't be asking them about this, but billions of dollars, I could take grade school kids out of the New Bedford school system, educate them, give them degrees and have them clean it up. So why is it taking us 40 years to do it? I think I'll leave with that. Thank you.

PH-52

Jack Terrill:

Alright, with that I am going to close the Public Hearing. As I said, please send comments early. If you wait until the 10th, makes life more difficult. You can send them to me by email. You can send them to the mailing address that's there and more information can be found on the website. The address link is there as well. Thank you all for coming and have a wonderful Thanksgiving.

8.2 Comment Letters - Received during comment period

See Appendix C

8.3 Response to Comments

Comments that resulted from the public hearing are designated with "PH" before the comment number. The remaining comments were received by letter or email. Specific comments have been denoted in the public hearing transcript or letter and have been summarized below.

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A. City of New Bedford Proposals

Comment PH-1: Frustration that the City of New Bedford applications (Regional Shellfish Restoration, Upland Riparian Restoration, Palmers Island Sanctuary) all received a low score in the merit review.

Response: The Trustee Council understands the frustration being experienced over the City of New Bedford's applications not being selected. The preliminary decision was based on the scores for each of the applications. The scores followed the criteria that have been used for previous funding rounds and was explained in the Federal Funding Opportunity (FFO) soliciting applications for Round IV. In summary, the criteria and maximum number of points are:

1. Importance/Relevance and Applicability of the Proposal – 35 points
2. Technical/Scientific Merit – 25 points
3. Overall Qualifications of the Applicants – 15 points
4. Project Costs – 20 points
5. Outreach, Education and Community Involvement – 5 points

Under the first criterion, there was a required provision worth a maximum of 20 points that determined whether the project restored, protected, conserved, enhanced, replaced

or acquired the equivalent of natural resources that were injured as a result of the releases of hazardous substances, including PCBs, in the New Bedford Harbor Environment.

Based on the scores received, the top four applications were selected as the preferred Round IV applications which were then presented for public comment.

The FFO stated that there would be a 30-day public comment period and public hearing, both of which were conducted for Round IV. At the conclusion of the public comment period the Trustee Council would consider the comments from the public and its advisors before making its final decision. That process did occur and the Trustee Council met on December 23, 2010 to render its decision. That decision did take into account the public comments received as is evidenced by the revised selection of applications for funding which now includes two of the City of New Bedford applications *(Acushnet River Upland Riparian Restoration and Palmers Island Sanctuary and Interpretive Trail)* as well as a modification in the funding levels for the remaining applications to receive funding.

Comment PH-2: The NBHTC is ignoring the City of New Bedford and there must be a reconsideration of the decision. The NBHTC should fund the City's applications.

Response: The Trustee Council followed the process specified in the Federal Funding Opportunity. After the conclusion of the public comment period and after considering the comments received, the Trustee Council did reconsider its preliminary decision and revised its selection of applications to now include two of the City of New Bedford applications for funding.

Comment PH-4: NBHTC has the opportunity to end speculation on how the decisions were made. The Trustee Council process of selecting project needs improved transparency and needs to provide more information for why individual projects were not selected.

Response: The response to Comment PH-1 provides an explanation of how the Trustee Council reached both its preliminary and final decisions.

Comment PH-5: The City of New Bedford proposals have a tremendous amount of merit – restore what was lost, enhance quality of life, reconnect people with the water and provide economic drivers.

Response: After consideration of the public comment and a reconsideration of the proposals and funding amounts, the Trustee Council decided to provide funding to two of the City of New Bedford applications *(Acushnet River Upland Riparian Restoration and Palmers Island Sanctuary and Interpretive Trail).* In selecting these applications, the Trustee Council determined that aspects of each proposal met the restoration criteria and would be eligible for funding.

Comment PH-6: The City of New Bedford asked for all the applications and the balance sheets on how the NBHTC made its decision but was told that they were not available and the City filed a Freedom of Information Act request to get the information.

Response: NOAA (acting as Administrative Trustee) has responded to the request and provided the applications submitted under Round IV. NOAA was not able to provide the individual score sheets though under a Freedom of Information Act exemption which exempts from disclosure inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. The records are exempted from disclosure through deliberate process privilege. (5 U.S.C. § 552 (b)(5)) NOAA did release the Technical Advisory Committee recommendation to the Trustee Council which provided the ranking of applications with their mean scores, as well as summarized technical comments on the applications.

Comment PH-7: There was an excessive delay (21 months) in the NBHTC making its preliminary decision.

Response: The Trustee Council acknowledges that there was a delay. The staff of the Trustee Council split the time they work on New Bedford Harbor with work on other responsibilities. Initial delays resulted when staff were directed to provide either review or technical monitoring of American Recovery and Reinvestment Act of 2009 projects. This was then followed by the Deepwater Horizon oil spill in 2010 which once again redirected staff efforts.

There are also ongoing New Bedford Harbor projects from earlier funding rounds that need staff effort and time. With this being the last Trustee Council funding round, it became critical to know how much was available for Round IV. The staff needed to determine what level of funding would be required to complete ongoing restoration projects and what level of funding would be needed to fund the Trustee Council's administrative activities.

Comment PH-11: Up until now, the City of New Bedford projects had received 33% of the funding. The proposed Round IV funding would reduce the percentage to 25%.

Response: The Trustee Council through the years looked at ideas and later proposals for their merit first and foremost. The allocation by community was tracked through the years as was the allocation by restoration priority but was not directly applied in decision-making. The Trustees looked at the ideas and proposals presented and selected what they thought would be best to restore the natural resources that were injured by the hazardous material released into New Bedford Harbor and the Acushnet River.

The breakdown of funding by community resulting from the Trustee Council's final Round IV decision follows:

Community	Total Funding	Percentage
Acushnet	$7,526,915	25%
Dartmouth	$2,009,785	7%
Fairhaven	$8,491,368	28%
New Bedford	$9,187,597	30%
Other	$3,442,954	11%
Total	$30,658,619	

Comment PH-21: The City's projects would benefit the families and neighborhoods who have most directly suffered the effects of the pollution. They have been exposed to their City's industrial legacy at work.

Response: The Trustee Council acknowledges the public benefits of the City of New Bedford proposals. After consideration of the public comment and a reconsideration of the proposals and funding amounts, the Trustee Council decided to provide funding to two of the City of New Bedford applications *(Acushnet River Upland Riparian Restoration and Palmers Island Sanctuary and Interpretive Trail).* In selecting these applications, the Trustee Council determined that aspects of each proposal met the restoration criteria and would be eligible for funding.

Comment PH-23: The City's proposals will mitigate the impact of the harbor pollution by connecting the people of the area and the people who visit the area with the waterway.

Response: After consideration of the public comment and a reconsideration of the proposals and funding amounts, the Trustee Council decided to provide funding to two of the City of New Bedford applications *(Acushnet River Upland Riparian Restoration and Palmers Island Sanctuary and Interpretive Trail).* The proposals would reconnect people with the waterway but will also provide habitat benefits through plantings to provide surface water filtering.

Comment PH-26: New Bedford projects promote stewardship, provide direct benefits to the damaged resources and are accessible to the impacted population.

Response: After consideration of the public comment and a reconsideration of the proposals and funding amounts, the Trustee Council decided to provide funding to two of the City of New Bedford applications *(Acushnet River Upland Riparian Restoration and Palmers Island Sanctuary and Interpretive Trail).*

Comment PH-27: New Bedford projects give the largest ecological and economic benefit to the greatest number of people affected by the resource injury.

Response: After consideration of the public comment and a reconsideration of the proposals and funding amounts, the Trustee Council decided to provide funding to two

of the City of New Bedford applications *(Acushnet River Upland Riparian Restoration and Palmers Island Sanctuary and Interpretive Trail).*

Comment PH-48: The failure to select the City of New Bedford projects may be payback for the City fighting NOAA on fishing.

Response: This is not true. The decisions of the Trustee Council are based on an evaluation of the technical merits of the individual proposals that were submitted for consideration. Those proposals were scored using the published criteria and a ranking was developed. The Trustee Council then preliminarily selected the projects based on their ranking and availability of funds. The selection was by unanimous consensus in which NOAA had just one voice.

Comment 8: Support for the City of New Bedford's three projects (Acushnet River Upland Riparian Restoration, Palmer's Island Sanctuary and Interpretive Trail, and Regional Shellfish Restoration).

Response: The Trustee Council notes the support for the three City projects. The Trustee Council has decided to fund the Acushnet River Upland Riparian Restoration and Palmer's Island Sanctuary and Interpretive Trail projects. The Trustee Council chose to not fund the Regional Shellfish Restoration Project. (see Comment PH-15).

Comment 19: The Massachusetts Trustee should work closely with the City of New Bedford to investigate possibility of securing other state funds for City's proposals.

Response: Representatives of EOEEA worked with the City of New Bedford and were able to identify additional state funding to assist with the Palmer's Island Sanctuary and Interpretive Trail and Regional Shellfish Restoration project.

A.1. Acushnet River Upland Riparian Restoration Project

Comment PH-3 and Comment 14: Support for the Acushnet River Upland Riparian proposal. The NBHTC should reconsider the decision to reject the Acushnet River Upland Riparian Restoration proposal.

Response: The Trustee Council acknowledges the strong public support for the Acushnet River Upland Riparian Restoration proposal that was expressed at the public hearing and in letters received, and has selected the application for funding, though at a reduced level.

Comment PH-13: The Acushnet Sawmill Ecological Restoration and LaPalme Riverside Farm Acquisition should not be preferred over the Upland Riparian Restoration Project.

Response: The comment is noted. The results of the technical review indicated that the two proposals both received a higher score than the Upland Riparian Restoration Project. If there were sufficient funds, the Trustee Council could have selected this proposal for funding at the preliminary stage. With a reduction in funding for all the preferred proposals, the Upland Riparian Restoration Project is now able to receive funding.

Comment PH-52: The Riverwalk is not restoration, it is a new use.

Response: The Acushnet River Upland Riparian Restoration project provides restoration by reducing impacts to the river. For example, it will prevent future development, provide protection by removing debris and fill, provide protection through the filtering of surface water through the addition of native plantings, and restores a lost use by allowing people to once again walk along the river. This would have been difficult to do during the period of time when this area was used by industry.

Comment 21: The Acushnet River Upland Riparian Restoration should be funded by Chapter 91 considerations by the landowners, City of New Bedford and the Commonwealth.

Response: The Massachusetts Public Waterfront Act (M.G.L Chapter 91) is used to protect and promote the public use of tidelands and waterways. It regulates activities occurring on coastal and inland waterways. The public trust doctrine it implements in part preserves and promotes pedestrian access along the water's edge. This project would need to apply for and be subject to a Chapter 91 license. The only time fines could come into play would be if there was an unlicensed structure that was considered to be a public nuisance, a hazard to public safety or it may significantly interfere with navigation. The Trustee Council is not aware of any Chapter 91 funding in the amounts that would be needed for the proposal.

A.2. Palmer's Island Sanctuary and Interpretive Trail

Comment PH-14: Palmer's Island has not been accessible in a hundred years. This is an important proposal because it will be a wildlife sanctuary, support the ecosystem of the bay and get people back out to the island. The Palmer's Island Sanctuary project will preserve the only natural coastal habitat within New Bedford.

Response: The Trustee Council acknowledges the public support for the Palmer's Island Sanctuary and Interpretive Trail. The Trustee Council decided to fund the project, but at a reduced level of funding than requested. Based on the FFO, the Trustee Council chose to not fund elements of the proposal that were more focused on recreational use. Instead, the Trustee Council is more interested in funding the habitat restoration element and will work with the City of New Bedford in developing an appropriate proposal to match the funding level. In addition, representatives from

EOEEA have worked with the City to identify other sources of funding for the non-habitat restoration aspects of this proposal.

Comment 15: Support for the Palmer's Island Sanctuary and Interpretive Trail.

Response: The Trustee Council acknowledges the public support expressed for the Palmer's Island Sanctuary and Interpretive Trail proposal at the public hearing and in letters received, and has selected the application for funding, though at a reduced level.

A.3. Regional Shellfish Restoration Project

Comment PH-15: The project that has been left on the side of these funding grants over the last 17 years has been shellfish restoration. This is a species that was harmed and needs to come back.

Response: The Trustee Council has provided over $1.3 million to shellfish restoration over the past 17 years. Of this funding, the City of New Bedford received over $1.2 million on behalf of the Regional Shellfish Restoration Committee composed of representatives from Dartmouth, Fairhaven and New Bedford. The money was used to conduct a contaminated shellfish relay, shellfish seed purchase and planting, a family shellfishery, predator control, enforcement and development of a shellfish restoration plan.

For Round IV, this proposal ranked lower (#8 out of 15) than the other preferred proposals. In addition concerns have been previously expressed by the EPA and the DEP over the PCB levels in shellfish located in Areas I and II leading to the recommendation that shellfishing or shellfish relocation efforts should not be conducted in these areas. Moreover, past funding did not produce a sustainable shellfishery, a goal of the funding.

B. Round Hill Salt Marsh Restoration Project

Comment PH-31: A previous letter from the Round Hill Community expressing concerns about the project was presented.

Response: See Response to Comment 2 below.

Comment PH-34: Round Hill Marsh is located in an affluent area and should not be funded. The money is for New Bedford Harbor. PCBs never contaminated the land around Round Hill Marsh.

Response: The Trustee Council does not believe that relative community affluence should comes to bear in the decision on whether to restore a marsh or not. The natural

resources that will benefit from a restored marsh are the primary focus. The decision on which marsh to restore takes into account feasibility, benefits and impacts to natural resources and the surrounding area, costs and sustainability. Providing a quality replacement marsh should provide greater benefits at less cost than restoring PCB-contaminated marshes in the harbor.

Comment PH-38 and Comment 1: Support for the Round Hill Marsh restoration project.

Response: The Trustee Council notes the support for the project and decided to provide funding, but at a reduced level. In doing so, the Trustee Council encourages the applicant to seek other sources of funding for the project.

Comment PH-39: Though originally proposed by the Town of Dartmouth, NOAA was the applicant on the Round Hill Marsh restoration project because the Town did not have the manpower to implement the project.

Response: NOAA Restoration Center staff have the technical and administrative skills to implement the project. They will work closely with the Town of Dartmouth and the Round Hill community and its representatives to achieve a functioning and sustainable marsh.

Comment PH-40: Restoring environmental functions and values of marshes outside the harbor is equally important as restoring inside the harbor.

Response: The Trustee Council agrees with this comment. The species that use the marshes outside the harbor do not stay in one place, they move about depending on their life stage. Providing a restored, clean environment will help the natural resources that occupy these marshes at various times. Since it is difficult to restore the marshes of the harbor due to the level of contamination, it is important to focus efforts to the marshes outside the harbor.

Comment PH-41: All the functions and values of Round Hill Marsh that were lost will be restored not just enhanced.

Response: The Trustee Council recognizes the opportunity that the Round Hill Marsh proposal provides. The opportunity to create a functioning salt marsh in a clean environment where there once was one will provide benefits to natural resources in the immediate area but also to the New Bedford Harbor environment.

Comment PH-42: The project managers for the Round Hill Marsh restoration project have been encouraging the participation of the adjacent property owners in developing the project design.

Response: In order for the project to proceed smoothly, close coordination between the project managers and the adjacent property owners will be essential. The Trustee Council encourages the adjacent property owners and property managers to work together in close coordination on the project design.

Comment PH-47: The problem at Round Hill Marsh is self-inflicted, caused by the filling and construction of the airport facilities.

Response: With the exception of protecting undeveloped land, the majority of the restoration projects undertaken by the Trustee Council and other entities involve restoring natural resources that were impacted or harmed by past development. That development could be the building of a road over a marsh, the damming of a river or the manufacturing and release of chemicals. The purpose of restoration is to restore or enhance those areas and resources that were impacted to bring back the functions and values of what that area or natural resource previously provided. CERCLA requires a Trustee Council to either restore, replace of acquire the equivalent to achieve the restoration of the impacted natural resources.

Comment 2: Concerns expressed by the Round Hill Community Corporation (RHCC) on the potential adverse impacts of the Round Hill Marsh Restoration Project on their property.

a. *Flooding* – What are the impacts the project could have on coastal tidal flooding, freshwater flooding on the RHCC property including flooding of the gulf course and residential properties.

Response: (Note: the full responses to these concerns were provided to the RHCC on July 7, 2009). To date, the project team has performed a study to determine the feasibility of restoring the Round Hill salt marsh by removing the fill that had been placed on the former marsh early last century. During this study, the team developed limited tidal data and groundwater information, but have not yet performed numeric modeling to determine the project's potential impacts to RHCC's surface or groundwater resources.
Based on the project team's extensive experience in restoring salt marshes, the team believes it is very likely that this restoration project can be designed such that there will be no negative impacts to RHCC interests through either surface flooding or changes in groundwater level. To properly design the restoration project and be protective of RHCC interests, the team will need to perform hydrodynamic modeling.

b. *Impacts on RHCC groundwater levels and available water resources* – What are the impacts the project would have with respect to changing existing water tables and increasing or decreasing groundwater levels on RHCC property?

   Response: See the response to "a" above.

c. *Odor* – Have heard there were odor problems at other sites. Project team indicated that initially they did not anticipate any odor problems but the

building up organic material over time could lead to the creation of odors. RHCC would like a more refined analysis.

Response: Other marshes may have odor problems when large areas of saturated, decomposing peat is exposed and reflooded on a continuing basis. The Round Hill project will not experience this since it is a fill removal project to recreate the marsh. Over time, organic material will build up and the marsh is expected to eventually smell like a natural marsh during low tide. A restored Round Hill marsh should smell similar to the adjacent Meadow Shores Marsh.

d. *What if something goes wrong*? – How will the Town of Dartmouth and project team remedy problems that arise that impact the golf course?

Response: The project will go under significant analysis during the design phase to ensure the project can be constructed without any adverse impact to RHCC. If the project team believes the project cannot be constructed in any way that prevents unacceptable impact to RHCC, the project will not enter the regulatory process and will be terminated.

The construction contractor will be required to 1) post a construction bond and 2) fix any issues that result directly from the construction plans and specifications not being followed.

The project team will monitor the restored marsh for at least three years following the completion of the construction. Typical monitoring includes ecological parameters (vegetation development on, and fish usage of, the marsh plain) and physical measurements such measuring whether the surface water elevations are consistent with what was predicted by the models. The team will also monitor the stability of marsh channels and any potential erosion of berms. Other parameters could also be monitoring and the RHCC was invited to suggest other parameters.

Should a problem or issue be identified, the team will work to adaptively manage the restoration and fix the solution.

e. Monitoring, maintenance – What monitoring, maintenance, and repair measures will be instituted to maintain the integrity of the new marsh system?

Response: See the response to “d” above.

f. Breaching – Would a breaching or leak drain the RHCC freshwater wetlands and how will this be prevented?

Response: It is the project team’s intention that any berm system require little

or no maintenance to remain effective. As the team advances the design for the project and the berms, they will be better able to assess the potential for erosion of the berm and potential impact to freshwater wetlands, and propose a system for monitoring and maintenance.

g. Additional data needs – Additional tidal data should be collected and tide gauges need to be installed in the eastern portion of the project area.

Response: The project team will collect additional tidal data as recommended in the feasibility report.

Comment 3: Opposition to funding the Round Hill Marsh Restoration Project.

Response: The Trustee Council notes the opposition to the proposal but continues to support the proposal because it presents an excellent opportunity to restore a habitat that will contribute to the overall health of the New Bedford Harbor Environment.

Comment 9: Opposition to funding the projects submitted by Trustee agencies (Round Hill Marsh Restoration and Tern Restoration and Management).

Response: The actions of a Trustee Council are governed by the provisions of the Comprehensive Environmental Response, Compensation and Liability Act. CERCLA specifies that "Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace or acquire the equivalent of such natural resources." CERCLA then says the same for a State, as Trustee. CERCLA does not say that the funds then need to be distributed to others.

Since the creation of the Trustee Council, the Trustee agencies have been seeking out and proposing restoration project within the New Bedford Harbor Environment. In the early funding rounds the Trustee agencies were the entities conducting the projects by developing scopes of work, awarding the contracts, and overseeing the work. This was and is the situation with the Acushnet River Fish Passage project and the Marsh Island Salt Marsh Restoration project.

This was contemplated in the Federal Funding Opportunity when the type of funding instrument (Section II.C.) is discussed, including other Federal agencies. Other types of funding instruments are mentioned but this section requires the use of the grant application package to maintain consistency in what information is provided.
It must be noted that other Trustee Council's fund projects suggested by the Trustee agencies represented on those Trustee Councils.

C. Restoration and Management of Tern Populations in Buzzards Bay

Comment PH-12: The idea that New Bedford PCB money would be put towards bird sanctuaries is an affront and outrage to the people of New Bedford.

Response: The funds that were received from the release of contaminants in New Bedford Harbor and the Acushnet River must be used by a Trustee Council to "restore, replace or acquire the equivalent of" the natural resources that have be injured, destroyed or lost. Roseate and common terns feed on fish in the harbor and river and as a result ingest PCBs which are present in the fish. This in turn has resulted in lethal effects on terns (Nisbet, 1990). Early in the planning for restoration, Roseate and common terns were determined to be a restoration priority for the Trustee Council. Until the tern population levels return to historic abundance, the Trustee Council believes that funds should be provided for tern restoration.

Comment PH-36: Money should not be used to restore terns, which are animals. Instead it should be used to restore the river for people.

Response: The response to Comment PH-12 provides an explanation why the Trustee Council is providing funding for tern restoration. Funds are also being provided for proposals in the harbor and along the Acushnet River that will provide benefits to people as well as benefits to the habitat and natural resources.

Comment PH-49: PCBs are not causing the problem with terns, DDT was the problem and since it was banned, the birds have been rebuilding.

Response: DDT was a well known problem affecting birds and their eggs. Since the time DDT was banned, the effects of DDT has been reduced. PCBs have been documented in the terns that occupy the nesting islands in Buzzards Bay (Nisbet, 1990) and samples have been taken that indicate that those PCBs are still present.

Comment PH-51: The Trustee Council is funding projects in Plymouth County.

Response: One of the tern nesting islands is located off the coast of Marion which is located in Plymouth County.

Comment 4: Opposition to funding the Tern Restoration and Management Project.

Response: Roseate terns (a federally and state listed endangered species) and common terns are known to have been adversely affected by the ingestion of contaminants biomagnified through the food chain. This injury was used in the complaint filed against the defendants in the AVX case. The proposal would continue the efforts to restore the tern populations injured by contaminant releases from the Site. The Trustee Council has decided to provide funding for this proposal.

Comment 6: Support for the Tern Restoration and Management Project.

Response: The Trustee Council notes the support for the project and decided to provide funding, but at a reduced level. In doing so, the Trustee Council encourages the applicant to seek other sources of funding for the project.

Comment 9: Opposition to funding the projects submitted by Trustee agencies (Round Hill Marsh Restoration and Tern Restoration and Management).

Response: The actions of a Trustee Council are governed by the provisions of the Comprehensive Environmental Response, Compensation and Liability Act. CERCLA specifies that "Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace or acquire the equivalent of such natural resources." CERCLA then says the same for a State, as Trustee. CERCLA does not say that the funds then need to be distributed to others.

Since the creation of the Trustee Council, the Trustee agencies have been seeking out and proposing restoration project within the New Bedford Harbor Environment. In the early funding rounds the Trustee agencies were the entities conducting the projects by developing scopes of work, awarding the contracts, and overseeing the work. This was and is the situation with the Acushnet River Fish Passage project and the Marsh Island Salt Marsh Restoration project.

This was contemplated in the Federal Funding Opportunity when the type of funding instrument (Section II.C.) is discussed, including other Federal agencies. Other types of funding instruments are mentioned but this section requires the use of the grant application package to maintain consistency in what information is provided.
It must be noted that other Trustee Council's fund projects suggested by the Trustee agencies represented on those Trustee Councils.

D. Acushnet Sawmill Ecological Restoration

Comment PH-28: The Acushnet Sawmill Ecological Restoration and Upland Riparian projects are natural compliments to each other and can be accomplished with the funds available. The Acushnet Sawmill site provides unique conservation opportunities accessible to the City of New Bedford.

Response: The support for the proposals is noted and the two proposals have been selected for final funding.

Comment PH-29: Funding of the Acushnet Sawmill and LaPalme proposals, will expand and restore 19 acres and remove 5 acres of impervious cover, and will add 47 acres of conservation land.

Response: The Trustee Council acknowledges the benefits of the two proposals. The support for the proposals is noted and the two proposals have been selected for final funding.

Comment PH-30: Support for the two proposals located in Acushnet, since they promote regionalization.

Response: The support is noted and the two proposals have been selected for final funding.

Comment PH-53 and Comment 13: Support for the Sawmill proposal.

Response: The support for the Acushnet Sawmill Ecological Restoration proposal is noted and the proposal has been selected for final funding.

E. LaPalme Riverside Farm Land Acquisition

Comment PH-29: Funding of the Acushnet Sawmill and LaPalme proposals, will expand and restore 19 acres and remove 5 acres of impervious cover, and will add 47 acres of conservation land.

Response: The support for the proposals is noted and the two proposals have been selected for final funding.

Comment PH-30: Support for the two proposals located in Acushnet, since they promote regionalization.

Response: The support is noted and the two proposals have been selected for final funding.

Comment 16: Support for the LaPalme Riverside Farm Acquisition.

Response: The support for the LaPalme Riverside Farm Acquisition proposal is noted and the proposal has been selected for final funding.

F. Fund Projects within the Harbor

Comment PH-18: The funds were to help compensate for the environmental assault and degradation suffered by the City and its residents. The money was not put aside to help restore wild birds on the island off Marion, Mattapoisett and Cuttyhunk or saltmarshes at Round Hill in Dartmouth.

Response: According the CERCLA (42 U.S.C. §9607(f)(1), the funds must be used by the Trustee Council to "restore, replace, or acquire the equivalent of" the natural resources that have been injured. Section 3.5.2 of the RP/EIS discusses the ecological injury that occurred in New Bedford Harbor. This section discusses that fish, shellfish and birds have been contaminated by PCBs. Sampling of fish indicated that American eel, three species of flounder (summer, winter and windowpane), scup, bluefish, tautog and striped bass had PCB levels exceeding FDA limits. This section also discussed that common terns have been lethally poisoned from eating baitfish such as Atlantic silversides in New Bedford Harbor.

While salt marshes are not affected by PCBs, the species that occupy contaminated marshes can be injured. That is why it is important to provide clean, restored marshes to serve as a replacement to those found in the Harbor. Focusing efforts on restoring and managing terns will help overcome the mortalities caused by the lethal effects of PCBs.

Comment PH-19: The Trustee Council has the choice to divert the last few million dollars to fund projects outside the City that do not benefit the City and do not have wide public support. Doing so will result in a federal lawsuit. The NBHTC should not want to be remembered for the recently announced grant award decisions.

Response: The Trustee Council believes that the final selection of proposals provides a good and fair balance that addresses proposals within the harbor, outside the harbor, a variety of restoration priorities and provides a variety of restoration benefits to both the natural resources and the public good.

Comment PH-20: The Trustee Council proposes to funds projects that were not damaged by the pollution of New Bedford. The funds would benefit the highest income area neighborhoods most distant from the pollution.

Response: The funding of proposals outside of the contaminated site is to provide clean, restored habitat for the injured natural resources such as fish and birds. At the current rate of funding and remediation activity, it will be several decades before the harbor cleanup is completed. The types of projects that the Trustee Council is providing funding for will provide benefits to the injured natural resources long before the cleanup is completed. With the funding of the two City of New Bedford projects, benefits to habitat, natural resources and the public will occur but the projects would not be undone by the cleanup activities.

Comment PH-22: The NBHTC can best meet its own objectives—to restore natural resources, human uses of natural resources and improve aspects of the human environment—by emphasizing projects in New Bedford Harbor itself.

Response: The Trustee Council believes that the final selection of Round IV proposals provides a balance that will provide benefits within and outside the harbor, to both natural resources and the public.

Comment PH-35: All the money should be spent in the Harbor, from the Aerovox plant to Fort Rodman.

Response: The Trustee Council believes that the final selection of Round IV proposals provides a balance that will provide benefits within and outside the harbor, to both natural resources and the public.

Comment 7: Support for funding just the restoration projects located within the harbor.

Response: The Trustee Council believes that the final selection of Round IV proposals provides a balance that will provide benefits within and outside the harbor, to natural resources and the public.

G. Trustee Council Process for Round IV

Comment PH-8: Two of the three Trustee Representatives were not involved in the original decision. The newer members of the NBHTC may feel it difficult to go against decisions made by a previously comprised board.

Response: The Trustee Representatives represent the agencies authorized to serve on the Trustee Council. The Trustee Representatives vet their decision with their agency after considering the legal and technical advice they received. The decisions reached are not individual decisions, but rather the agency decision. Further, the Memorandum of Agreement which the Trustee Council operates under specifies that decisions are reached by unanimous consensus.
The two new Trustee Representatives participated in the Round IV final decision. The decision reached was by the unanimous consent of all three Trustee Representatives.

Comment PH-9: Two of the preferred applications (Round Hill Marsh Restoration, Tern Restoration and Management) were sponsored by the government (NOAA and MassWildlife). Funding should not be provided for the Tern Restoration and Management and the Round Hill Salt Marsh Restoration proposals. The two government-sponsored projects should be rejected.

Response: The actions of a Trustee Council are governed by the provisions of the Comprehensive Environmental Response, Compensation and Liability Act. CERCLA specifies that “Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace or acquire the equivalent of such natural resources.” CERCLA then

says the same for a State, as Trustee. CERCLA does not say that the funds then need to be distributed to others.

Since the creation of the Trustee Council, the Trustee agencies have been seeking out and proposing restoration project within the New Bedford Harbor Environment. In the early funding rounds the Trustee agencies were the entities conducting the projects by developing scopes of work, awarding the contracts, and overseeing the work. This was and is the situation with the Acushnet River Fish Passage project and the Marsh Island Salt Marsh Restoration project. In several cases, Trustee agency proposals did not receive funding such as the proposal for *Enhancement of Bottom Habitat for Marine Species in Buzzards Bay as related to the New Bedford Clean-up* submitted by the Massachusetts Division of Marine Fisheries.

This was contemplated in the Federal Funding Opportunity when the type of funding instrument (Section II.C.) is discussed, including other Federal agencies. Other types of funding instruments are mentioned but this section requires the use of the grant application package to maintain consistency in what information is provided.
It must be noted that other Trustee Council's fund projects suggested by the Trustee agencies represented on those Trustee Councils.

Comment PH-10: The Trustee Representatives each abstained from the vote for their respective applications. That gave only two votes for the project giving them a preferred status.

Response: What is described by the commenter did not occur. Rather, what did occur was that no technical reviews were conducted by staff from the agency submitting the proposal. For example, no NOAA staff provided technical reviews of the Round Hill Marsh Restoration proposal which was submitted by a NOAA staff person. All three Trustee Representatives did participate in the preliminary decision to select those applications as being preferred. In doing so they reviewed the recommendation of the Technical Advisory Committee, the total point score and ranking, the technical comments and the funds being requested against the funds available. The decisions by the Trustee Representatives were by unanimous consent.

H. Comments Relating to the Harbor Cleanup

Comment PH-24: The City has been short-changed in the Superfund cleanup. Sufficient funding should have been provided to clean the area up in 10-15 years instead of 30 years or longer.

Response: The Trustee Council agrees with this comment and wishes that sufficient funds were available for the EPA to complete the cleanup of the site within a much shorter timeframe.

Comment PH-45: Remediation work has been going on for 15 years and is not addressing the problem.

Response: The Trustee Council is not involved with cleaning up the harbor. That is the responsibility of the EPA. Comments on the efficacy of the cleanup should be addressed to the EPA.

Comment 10: Opposition to funding projects until the cleanup is complete.

Response: The Trustee Council believes that since there are restoration opportunities available now and that once completed, will confer immediate benefits to natural resources, and that thereof, there is no reason the wait over 30 years to fund projects. Though, the Trustee Council will not fund projects that could be undone by the EPA's remediation efforts. Further, the Trustee Council has been in close coordination with the EPA to make sure that future remediation activities do not affect restoration projects. An example of this is the Marsh Island restoration project where the project design has taken into consideration that EPA will be conducting cleanup actions along the northern shore of Marsh Island.

Comment 11: Trustee Council should not redirect funds allocated for the cleanup.

Response: The Trustee Council is not using any funds allocated for the cleanup. Those funds are maintained by the EPA for the specific purpose of cleaning up the harbor. Since those funds have been completely expended, the EPA now relies on annual appropriations to conduct cleanup activities.

The funds that the Trustee Council uses result from a settlement with the parties responsible for the release of contaminants into the harbor and Acushnet River. They are used to restore natural resources and cannot be used for cleanup actions.

I. Other

Comment PH-16: The administrative costs of this fund could have funded everything that exists north of Wood Street Bridge over the last 17 years.

Response: The administrative costs are the combined staff time (including benefits), travel, supplies, equipment and expenses associated with implementing the restoration activities from 1993 to present. In that time, the Trustee Council has held four funding rounds and has completed 29 restoration projects. In addition the Trustee Council has funded and implemented 3 other restoration projects and is working with applicants on two other projects. In that time the Trustee Council has provided funding to the following:

Restoration Priority	No. of Restoration	Total Funding	Locations	Results

	Projects			
Recreation Areas	2	$4,515,000	New Bedford	Riverside and Taber Parks
Living Resources	3	$3,078,000	New Bedford, Acushnet, Dartmouth, Fairhaven	Acushnet River fish passage: 4.4 miles, Shellfish restoration
Plan/Studies	5	$243,000	New Bedford, Acushnet River watershed, Buzzards Bay	Wetland inventory, Monitoring boat, Open Space Plan, Artificial reef study
Water Quality	2	$229,000	New Bedford, Fairhaven	Sconticut Neck water quality study, Hurricane barrier study
Habitat	14	$8,170,000	Acushnet, Fairhaven, Freetown	Land protection: 646 acres protected, Eelgrass restoration: 4 acres transplanted
Marshes/Wetlands	5	$1,297,000	Dartmouth, Fairhaven	Padanaram marsh: 6.5 acres restored, West Island Beach marsh: 8 acres restored. Ongoing: Marsh Island, Winsegansett Marsh, Terminated: Nonquitt Marsh
Endangered Species	3	$1,564,000	Buzzards Bay	Restoration and management of tern colonies on nesting islands

Agency staff time was required to plan, implement and oversee these projects. None of the staff expenses are included in the Total Funding column above.

Comment PH-17: Put the money where the harm took place. Restore the funding the way it should have been administered and implemented to begin with and do it in a timely fashion.

Response: The funds are not just for the damage done to the harbor but also for the injury caused to the natural resources of the harbor and those natural resources that use the harbor environment as defined in the RP/EIS (Sec. 2.1.1.1.1). The Trustee Council is following the mandates of CERCLA for the uses of the funds. The final decision on the use of the funds was made on a timely basis and the applicants were provided notice and revised proposals were requested.

Comment PH-25: The NBHTC should ask itself, what is the source of the funding? It was generated by the damage done to New Bedford Harbor.

Response: The source of the funding resulted from the settlement the Federal and State government reached with the responsible parties. The Trustee Council was created as a result of the settlement and is responsible for using the funds to “restore, replace, or acquire the equivalent” of the injure natural resources. The funds are not just for the damage done to the harbor but also for the injury caused to the natural resources of the harbor and those natural resources that use the harbor. The Trustee Council is following the mandates of CERCLA for the uses of the funds.

Comment PH-32: The RP/EIS references New Bedford Harbor or Harbor.

Response: That is correct. The RP/EIS at Section 2.2.5 Selection Criteria 2 also states, "Priority will be given to projects within the New Bedford Harbor Environment, however, projects within the affected marine ecosystem that will have a direct, positive impact on the Harbor Environment will be considered." The New Bedford Harbor Environment is defined as the "area encompassed by the Acushnet River watershed which extends west into Dartmouth, east into Acushnet and Fairhaven, and from the north extending south to include the New Bedford Reservoir and the City of New Bedford into Buzzards Bay extending out to the area designated as Fishing Area III." The Trustee Council, following Selection Criteria 2 would consider ideas or projects that restore species that feed or spend a life stage within the Harbor Environment.

Comment PH-33: The areas of Marion and Mattapoisett were affected by the Bouchard Oil spill and should not be receiving funds appropriated for New Bedford Harbor.

Response: The areas of Marion and Mattapoisett which were affected by the Bouchard 120 oil spill in Buzzards Bay will be addressed by the restoration plan for that spill. Long before there was the Bouchard 120 oil spill, the common and roseate terns inhabiting Bird and Ram Islands were impacted by eating fish contaminated with PCBs from New Bedford Harbor. Roseate terns are an endangered species and one which the Trustee Council previously determined was a priority for restoration. The funds that the Trustee Council manages are intended for restoration of impacted natural resources resulting from the PCB releases in the harbor and Acushnet River. It is most appropriate for funding to come from the Trustee Council to restore and manage these species.

Comment PH-37: Other areas upriver should be considered for funding.

Response: Unfortunately this is the Trustee Council's last round of funding and no additional funds are available for restoration upriver. Under previous rounds, considerable funds have been expended in areas upriver to provide fish passage for river herring and eels, and to preserve land along the river from future development. Such preservation will greatly reduce potential downstream impacts to natural resources.

Comment PH-43: None of the projects deal with water and the Trustees are not addressing the major problem that the harbor is polluted with PCBs.

Response: The continuing cleanup efforts of the EPA will provide the greatest benefits to water column. By removing PCB-contaminated bottom sediments, the EPA is removing a major source of contamination in the harbor. The construction and use of the New Bedford wastewater treatment plant which provides secondary treatment is also a major contributor it increased water quality in the harbor.

Comment PH-44: Commenter discussed old restoration ideas that were considered in the Trustee Council's Round I.

Response: The focus of the environmental assessment was on the current applications submitted for funding under Round IV. The public hearing and comment period was for the public to submit comments on the environmental assessment and the Trustee Council's preliminary decision. All Round I projects that were chosen for funding have been completed.

Comment PH-46 and Comment 12: Will the Trustee Council reconsider the proposed projects based on the comments of the public hearing?

Response: The Trustee Council did reconsider the proposed projects based on the comments received during the public hearing and comment period. The result is that two of the City's projects will now receive funds. But this also required an adjustment of the funding amounts for all selected projects.

Comment PH-50: Commenter questioned the boundary lines for restoration.

Response: The area designated for restoration is the New Bedford Harbor Environment. This has been defined in the RP/EIS (Section 2.1.1.1) as: "t*he area encompassed by the Acushnet River watershed which extends west into Dartmouth, east into Acushnet and Fairhaven, and from the north extending south to include the New Bedford Reservoir and the City of New Bedford into Buzzards Bay extending out to the area designated as Fishing Area III. The watershed is defined as the entire surface drainage area that contributes water to the Acushnet River*."

This definition has been included in the Round IV environmental assessment.

Comment 5: Support for a compromise funding proposal that would allow funding the City of New Bedford's three projects (Acushnet River Upland Riparian Restoration, Palmer's Island Sanctuary and Interpretive Trail, and Regional Shellfish Restoration) and the Coalition for Buzzards Bay's two projects Acushnet Sawmill Ecological Restoration and LaPalme Riverside Farm Acquisition).

Response: The Trustee Council notes the support and has decided to partially implement the compromise funding proposal. The Trustee Council will provide funding to two of the City of New Bedford's proposals (Acushnet River Upland Riparian Restoration and the Palmer's Island Sanctuary and Interpretive Trail) and the Coalition for Buzzards Bay's two proposals Acushnet Sawmill Ecological Restoration and LaPalme Riverside Farm Acquisition). In addition the Trustee Council will fund the Round Hill Salt Marsh Restoration and the Tern Restoration and Management proposals.

Comment 17: Apportion the funds by community.

Response: Where this is a grant round based on specific applications, decisions are based on those applications rather than by community. Under the terms of the FFO though, applications may be selected out of rank order based upon the balance and distribution of funds either: 1) geographically, 2) by type of institution, 3) by type of partners, 4) by research areas, or 5) by project types. The Trustee Council did take these factors into consideration when they chose the final suite of projects.

Comment 18: Natural resource injuries resulting from a contaminated site are not necessarily limited to particular municipal boundaries or even state boundaries.

Response: The commenter's point is that injuries can result to transient populations of fish, wildlife and birds that spend a life stage or perhaps a season in the contaminated site. In such a case, the injury may occur at the site but also be carried off-site. There may also be the need to do restoration in clean areas until the contaminated site is cleaned up. This is why CERCLA includes replacement and acquiring the equivalent as appropriate restoration actions.

Comment 20: All selected proposals should be required to include a community education component.

Response: The Federal Funding Opportunity specifies that one of the criteria by which all proposals are judged is on Outreach, Education and Community Involvement. All selected proposals included this component.

Comment 22: A portion of the funding, proportionate to demographic and need could be kept until a later time and not spent until EPA has restored the areas to baseline, so what is planted will survive.

Response: The Trustee Council believes that the benefits to natural resources and the public of doing restoration now, far outweigh the benefits of waiting for the completion of the cleanup which may be decades from now. The natural resources can use the restored environment, property along the river can be protected from development and the public can enjoy prompt access and use of the restored environment.

In addition, none of the selected proposals will be undone by EPA's remedial work. All the selected proposals are complimentary to EPA's work. The Trustee Council will continue its coordination with EPA on projects being conducted in the Harbor.
Comment 23: New guidelines should be developed to embody the spirit and intent of the funding, and a new solicitation for projects should be conducted.

Response: The Trustee Council has been following the requirements of CERCLA and the process set out in the RP/EIS. No new guidelines are needed, nor is a new solicitation necessary.

Comment 24: Funding needs to be placed where there is a greater likelihood of survival of the biota (outside of the immediate harbor area).

Response: The Trustee Council follows a policy that restoration activities will not take place in area where those activities could be undone by cleanup actions. That policy has been used in the final selection of proposals for funding. If an area is determined to be not appropriate or infeasible for restoration, then the Trustee Council will terminate the project.

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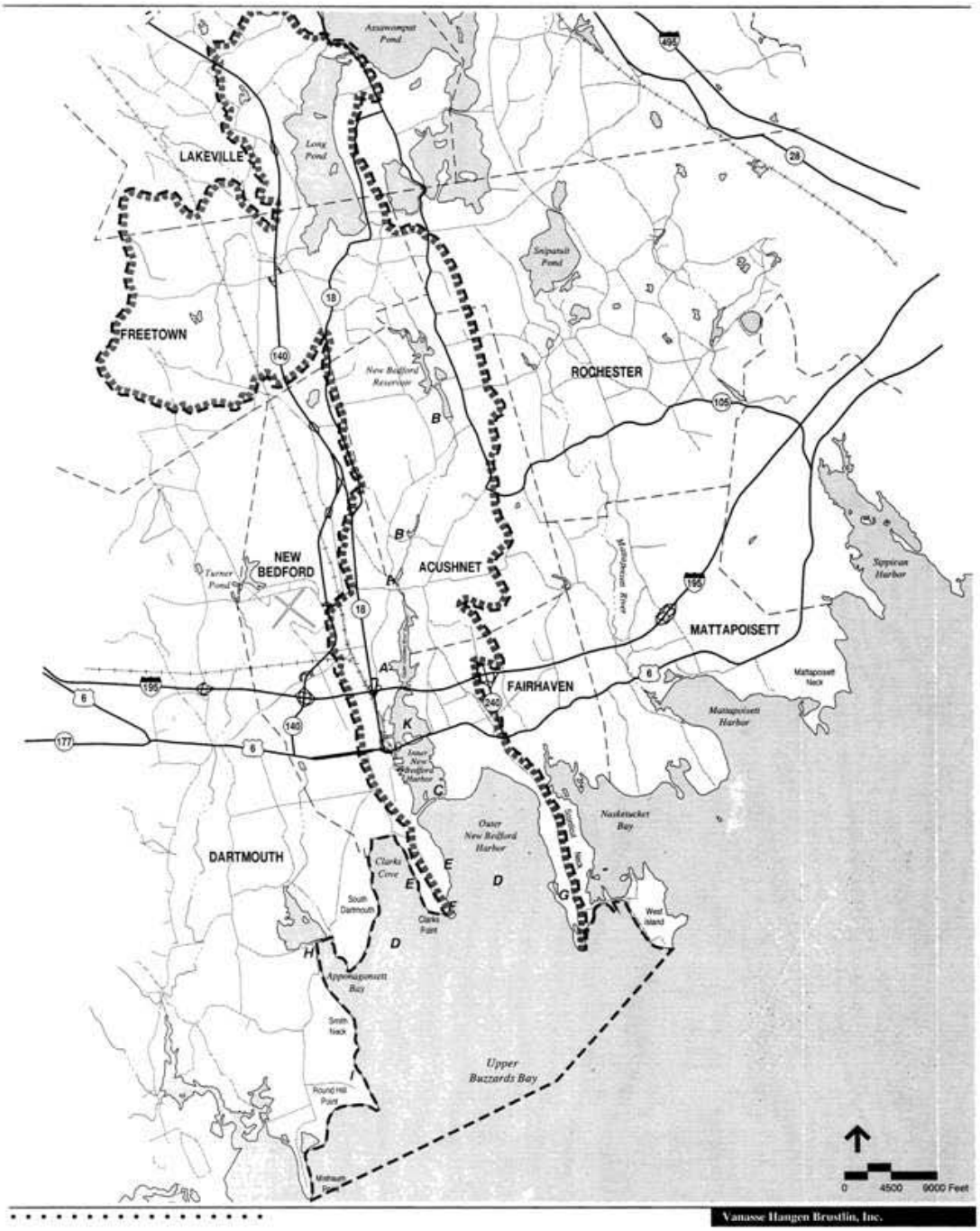
APPENDIX A – New Bedford Harbor Environment



Vanasse Hangen Brustlin, Inc.

New Bedford Harbor Trustee Council

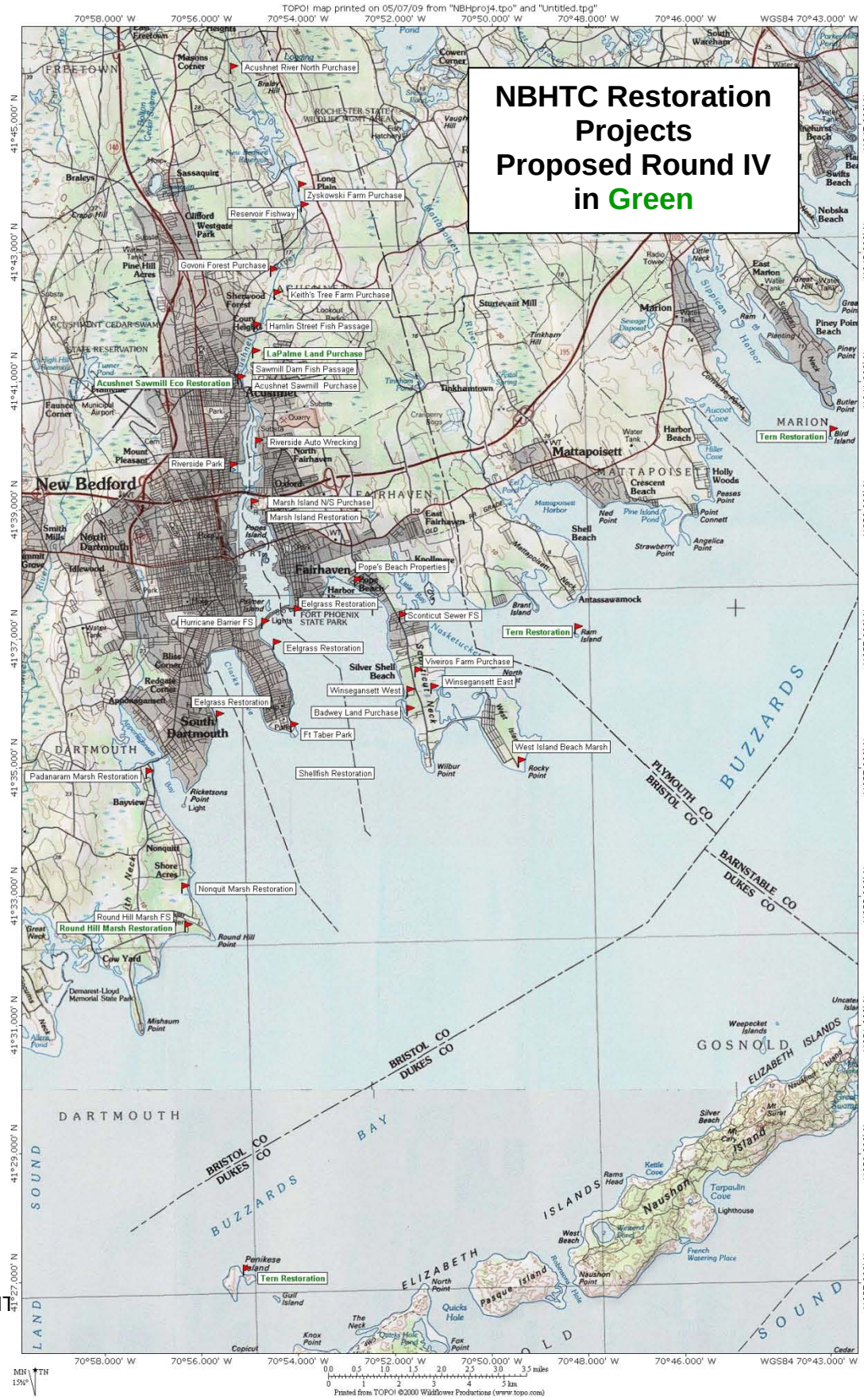
Acushnet River Watershed Boundary

New Bedford Environment

Acushnet River Watershed
and New Bedford Environment

70602AWS

APPENDIX B – Round IV Project Map



APPENDIX C – Comment Letters

Town of Dartmouth

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Park Department

Timothy J. Lancaster, Superintendent

John P. Costa, Chair
Gillian A. Lake, Vice Chair
Lisa B. Tavares, Clerk

November 17, 2010

Mr. Jack Terrill
New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Dr.
Gloucester, MA 01930

Comment: 1

Re: Round Hill Salt Marsh Restoration Project

Dear Mr. Terrill,

On behalf of the Town of Dartmouth Park Board, I would like to thank the New Bedford Trustee Council for selecting the Round Hill Salt Marsh Restoration Project for funding through round four of the Damage Assessment, Remediation and Restoration Program for the New Bedford Harbor Environment and for the opportunity to address the Council.

This letter follows my earlier letter of support and re-confirm the commitment by the Town of Dartmouth Park Board to the Round Hill Salt Marsh Restoration project.

This final stage of the project consists of the construction of the previously selected design alternative that will restore up to 12 acres of coastal salt marsh through the removal of significant amounts of fill material and re-grading to historic marsh elevations at the Round Hill Salt Marsh Restoration Site.

The Dartmouth Park Board, as owner of the property where the project would occur, strongly supports and endorses this project and urges the Council to fund the project in its final decision. In addition to greatly enhancing the many natural functions and values of the marsh the restored salt marsh would be a aesthetic improvement to the Round Hill Town Beach and the addition of a walking trail would enhance the recreational opportunities for the public.

For the Board,

Tim Lancaster
Superintendent of Parks

D A R T M O U T H M A S S A C H U S E T T S

Office of the Select Board
William J. Trimble, Chairperson
Michael P. Watson, Vice Chairperson
Lara H. Stone
Joseph Michaud
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David G. Cressman
Executive Administrator
Email: cressmandg@town.dartmouth.ma.us

November 19, 2010

Comment: 1

Mr. Jack Terrill
New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Dr.
Gloucester, MA 01930

Re: Round Hill Salt Marsh Restoration Project

Dear Mr. Terrill:

On behalf of the Town of Dartmouth Select Board, I would like to thank the New Bedford Trustee Council for selecting the Round Hill Salt Marsh Restoration Project as a preferred project for funding through round four of the Damage Assessment, Remediation and Restoration Program for the New Bedford Harbor Environment and for the opportunity to address the Council. While the Town of Dartmouth understands New Bedford's disappointment concerning its projects, the Town of Dartmouth's application is consistent with the New Bedford Harbor Trustee Council's Environmental Impact Statement / Restoration Plan because it restores and replaces the equivalent of the natural resources injured by PCB releases in the New Bedford Harbor as the harbor is defined to include areas of Dartmouth from Mishaum Point northeastward.

The Town of Dartmouth has a long-standing commitment to projects that provide environmental benefit to the citizens of Dartmouth and surrounding communities, and that contribute to the environmental health of Buzzards Bay, the New Bedford Harbor Environment and in cooperation with the City, the clean up of Clarks cove.

This project consists of the construction of the previously selected design alternative that will restore up to 6.9 acres of coastal salt marsh through the removal of significant amounts of fill material and re-grading to historic marsh elevations at the Round Hill Salt Marsh. With funding from other resources, an additional five acres of salt marsh may be restored. This site presents a superb – and quite rare – opportunity to restore a large area of contiguous, historically filled salt marsh and barrier beach coastal ecosystem that is publicly owned and remains vacant of permanent structures. Through the removal of fill material, re-creation of salt marsh plain, and excavation of historic tidal channels, this project could significantly enlarge this valuable

tidal system and greatly enhance the many natural functions and values of the marsh. A restoration project at this site would also provide valuable stewardship and educational opportunities due to its highly visible public location. Additionally, if the project 's soil investigating shows some of the excavated material is suitable to be placed on Round Hill Beach, the project will have a secondary benefit of beach nourishment.

The Town of Dartmouth strongly supports and endorses this project and urges the Council to fund the project in its final decision so that the Town of Dartmouth can continue its work toward restoration of our valuable natural resources.

Sincerely,

David G. Cressman
Executive Administrator

DGC:jd

DARTMOUTH MASSACHUSETTS

CONSERVATION COMMISSION
400 SLOCUM ROAD • P. O. BOX 79399
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MICHAEL O'REILLY
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November 19, 2010

Mr. Jack Terrill
New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Dr.
Gloucester, MA 01930

Comment: 1

Re: Round Hill Salt Marsh Restoration Project

Dear Mr. Terrill,

On behalf of the Town of Dartmouth and its project partners, I would like to thank the New Bedford Harbor Trustee Council for selecting the Round Hill Salt Marsh Restoration Project as a preferred alternative for funding through round four of the Damage Assessment, Remediation and Restoration Program for the New Bedford Harbor Environment and for the opportunity to address the Council.

As you know, this project began with funding received from the Trustee Council in round three of their funding cycle. With that funding we did the preliminary work necessary to assess the restoration potential of the project and make this project ready to go directly to final design, permitting and construction. Completed at this point are: the identification, evaluation and mapping of environmental resources and physical site conditions; a hydraulic analysis; a wildlife habitat evaluation; base mapping; a cost analysis was done and conceptual plans prepared that specifically describe the salt marsh restoration options. The results of this Feasibility Study was the basis for the current submittal. In preparing the current proposal the goals as described in the Environmental Impact Statement and Restoration Plan were basis for everything we did and we feel that we meet those restoration goals.

In a larger sense, the functions and values that salt marshes provide are well known and there are no artificial geographical boundaries to those benefits nor do the fish, shellfish and other natural resources dependent on marshes know any artificial boundaries. Each and every healthy salt marsh contributes in a very real and significant way to the New Bedford harbor environment and to the people who use the resources for recreation and enjoyment, and is especially beneficial to the people who depend on it for their livelihood. Restored environmental functions and values immediately outside of the hurricane barrier are as equally important to the New Bedford harbor

environment as restored functions and values immediately inside the barrier. But its more than just that. The EPAs Record of Decision specifies dredging of salt marshes within the areas directly impacted by the contamination where PCB levels exceed 50 ppm. It will be a number of years before these areas will be dredged and restored. Even then some salt marsh will remain relatively contaminated (0-50 ppm) after cleanup is completed. It is therefore very important to restore or enhance other marshes within the harbor environment to compensate for the lost benefits that the directly impacted marshes provided. I'd also like to point out that the Round Hill Salt Marsh Restoration Project is not a project that merely improves the diminished value of an existing degraded marsh, it completely reconstructs a marsh that has been lost for decades because it was filled in the early 20th century. All the functions and values will be restored, not just enhanced.

We find ourselves in the position of having a valuable, viable project that will produce significant benefits to the New Bedford harbor environment, and the money to pay for it. I submit that this is a unique opportunity not to be missed and it is my hope that the Council will continue to see the benefit of this project.

Thank you for the opportunity to address the Council.

Respectfully,

Michael O'Reilly
Environmental Affairs Coordinator
Town of Dartmouth

COMMONWEALTH OF MASSACHUSETTS
HOUSE OF REPRESENTATIVES
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ANTONIO CABRAL
STATE REPRESENTATIVE
13TH BRISTOL DISTRICT
STATE HOUSE, ROOM 466
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CHAIRMAN
HOUSE COMMITTEE ON BONDING, CAPITAL EXPENDITURES AND STATE ASSETS

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Rep.AntonioCabral@hou.state.ma.us

November 23, 2010

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
Attn: Jack Terrill

PH-2, PH-19, PH-20, PH-21, PH-22

Re: Round IV Preliminary Grant Decisions

I am deeply disappointed with the Council's recently announced preliminary grant award decisions in what is likely to be its last round of grants for New Bedford Harbor environmental restoration. These are not the decisions for which the Council and its members want to be remembered when the Council's role in one of the nation's largest environmental clean-up projects is examined.

The centuries' long contamination of New Bedford Harbor has and will long continue to serve as one of our nation's most important examples of industrial pollution. Similarly, the Harbor's clean-up has helped to establish the precedents for such projects in the United States and around the world. The New Bedford Harbor Trustee Council's record will surely be examined by those judging the success of the natural resource trustees established by CERCLA. In the coming weeks, the Council has a last opportunity to ensure that it will be deemed to have understood and fulfilled its role in this project: to help to reverse the damage done to the environment and the people of New Bedford.

To date, two-thirds of the Council's grant funds have gone to projects outside of New Bedford. Similarly, the projects which the Council's proposes to fund in this round would restore wetlands which were either not damaged by the pollution of New Bedford Harbor or only very indirectly damaged by that pollution. Most disturbingly, most of these funds would benefit some of the highest income area neighborhoods most distant from the pollution. I urge you to reconsider.

New Bedford's Upper Harbor Riparian Restoration Project would restore a portion of the Harbor damaged by New Bedford's industrial pollution and thereby rendered useless to its people. The Palmer Island Sanctuary Project and the City's Shellfish Rehabilitation Project would also most directly benefit the families and neighborhoods who have most directly suffered the effects of the pollution the Council exists to respond to. For decades, New Bedford's residents—specifically, those living adjacent to New Bedford's three proposals--have been exposed to their City's industrial legacy at work, in their homes, schools and neighborhoods. This is the Council's last chance to respond to them.

Although the projects the Council proposes to fund, in Acushnet, Dartmouth and Marion, are worthy projects, the Council can best meet its own objectives--to restore natural resources injured by PCB releases; to restore human uses of natural resources, such as fisheries and public access; and to improve

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aspects of the human environment of New Bedford Harbor that have been degraded by the Harbor contamination--by emphasizing projects in New Bedford Harbor itself.

You would make a significant statement by affording city residents access to the stretch of waterfront targeted by these New Bedford projects for the first time in decades. You will also have said loud and clear that the damage done is being reversed. I urge you, the members of the New Bedford Harbor Trustee Council to reconsider your decision and put the remainder of the settlement funds where they belong, here in New Bedford.

Thank you,

ANTONIO F.D. CABRAL
State Representative, 13th Bristol District
Chairman, Committee on Bonding, Capital Expenditures and State Assets

AFDC/ajm

R·H
Round Hill

June 3, 2009

Comment: 2a, 2b, 2c, 2d, 2e, 2f, 2g

NOV 23 2010

Michael O'Reilly
Environmental Affairs Coordinator
Town of Dartmouth
Conservation Commission
400 Slocum Road
Dartmouth, MA 02747

RE: Round Hill Beach Salt Marsh Restoration Project

Dear Michael,

Thank you very much for the May 23, 2009, presentation to the Round Hill Community Corporation ("RHCC") regarding the Round Hill Beach salt marsh restoration project. It was very helpful to understanding the issues and defining the concerns that RHCC has with respect to the project. At the presentation, you indicated that, in order for the project to move forward, the abutters must support it. As an abutter, RHHC has carefully reviewed the restoration project materials prepared to date and has retained a marine science professor from the University of Massachusetts (Miles Sundermeyer) to help RHHC understand the risks of adverse impacts that may be posed to RHHC by the restoration project.

At our meeting, your project team further indicated that an overriding objective of the project was to "do no harm." We wholeheartedly concur with this tenet and are pleased that you are assessing the viability of this project based on that criterion.

In terms of risks of adverse impacts to RHCC, our initial concerns and recommendations are as follows:

1. Flooding Concerns. RHHC is very concerned about the impacts the project could have on coastal tidal flooding, as well as freshwater flooding, of RHHC property, including any potential flooding of either our golf course or our residential property. Unfortunately, the materials prepared to date by your project team do not include any data and predictive models to assess these impacts.

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In terms of assessing the effects of the project on tidal and freshwater flooding, we believe that at least two types of modeling are needed. The first is a hydrodynamic modeling of both existing and proposed marsh systems to determine how tidal flooding and storm surges occur under the existing marsh system and how they would occur under the proposed marsh system. The second is a modeling of surface water run-off and local groundwater elevations to assess the how freshwater flooding occurs under present conditions and how it would occur under the proposed system. Both sets of modeling should focus on the comparing the impacts of the two systems, both current and proposed, on RHCC property.

Some of the issues that should be addressed by such modeling include:

--assessment of the effects of the proposed system on tidal flooding and storm surges and the impacts of such flooding on RHCC property.

--assessment of the effects of the proposed berm system on the existing RHHC freshwater marsh conditions and on the potential for storm drainage back up and flooding of RHHC property.

--assessment of the effects on RHHC property of each of the proposed scenarios for alleviating Ray Peck Drive drainage issues.

--assessment of the effects on RHCC property of destroying the remaining portions of the Green estate storm drain system.

--assessment of the effects on RHCC property of any increased potential for seawater inundation from extreme tides or storm surges (and the effects of such seawater inundation on RHCC grass and other freshwater vegetation).

--assessment of enhanced erosion potential resulting from proposed topographical changes and altered freshwater and salt water flow conditions.

At a minimum, the tidal/storm surge modeling should include an assessment of the 1 year, 10 year and 100 year tidal/storm surge events and the freshwater flooding modeling should include an assessment of the 1 year, 10 year, and 100 year rainfall events.

2. Impacts on RHCC Groundwater Levels and Available Water Resources. We are also concerned about the impacts that the project would have with respect to changing existing water tables and increasing or

decreasing groundwater levels on RHCC property. Currently, our golf course has manageable groundwater conditions and we have sufficient water to maintain our golf course throughout the summer months. We are concerned about any adverse impact the project would have on this existing water dynamic in terms of either making our course wetter and more unplayable or, alternatively, diminishing the water that RHHC naturally has available for maintaining the vitality of the course during the dry summer months. To date there has been no data or modeling to assess these impacts.

As with the flooding issue, we believe that there should a careful assessment of the impacts that the proposed marsh system will have on existing RHCC groundwater conditions in terms of either increasing or decreasing groundwater levels during various seasons and times of the year and the impact such changes would have on the vitality of the golf course and on the water levels of RHCC ponds or wells that are used for necessary RHHC irrigation purposes.

3. Odors. We understand that there are odor problems associated with the Nonquit salt marsh restoration effort. In connection with odors, your project team indicated that initially they did not anticipate any odor issues with respect to the proposed restoration project because they would be removing the current four feet of compacted fill down to a non-organic sandy surface. However, we also thought we heard from your team that, over time, organic material would indeed build up in the new marsh that could lead to the creation of odors at low tide. RHCC would like to see a more refined analysis of this issue to demonstrate that there will be no adverse odor concerns to contend with.

4. What If Something Goes Wrong? Although we appreciate that there will be a lot of technical analysis completed before any decision is made to proceed with this restoration project, there is still the possibility that some significant adverse impact to RHCC will occur as a result of this project. In such an event, RHCC wants to understand how the Town of Dartmouth and the project team will remedy the problem and pay for any damages to RHCC. In particular, the RHCC golf course immediately adjacent to the proposed project is a very important and valuable asset of the RHCC community and any adverse impact on that course will significantly diminish RHCC property values. We believe that this important issue needs to be squarely addressed before proceeding further.

5. Other Issues. In addition to the foregoing, there are some other additional issues that we believe require attention. These include the following:

--What monitoring, maintenance and repair measures will be instituted to maintain the integrity of any new marsh system and to prevent the potential for any of the above described adverse impacts? How will the tidal inlet be maintained and/or dredged? How will any berm system be maintained? Will there be a reliable trust fund to assure that money is available to pay for such measures?

--Would a breaching or leak of the berm system drain the RHCC freshwater wetlands? How will this be prevented? What if those wetlands are damaged?

--The project team reports indicate that more tidal data are needed to evaluate tidal elevations properly and assess culvert size for the new marsh system. We think that this additional data should be collected. We also think that tidal gauges also need to be installed in the eastern portion of the project area to determine the differences between this portion of the site and Buzzards Bay. Such data would be of direct use in connection with the hydrodynamic modeling of tidal flooding and storm surges recommended above.

Once again, Mike, we appreciate the presentation that you made on May 23 and we look forward to having the above concerns and issues addressed in an objective manner to insure that the project will not move forward if there will be harm done to RHCC. We will keep you advised of any other concerns that may arise as we continue our review and analysis of the project. Thank you.

Sincerely,

Ernie Cornelssen

Cc. Steve Block
Craig Wood
RHCC Board of Directors

1059303_1

ENVIRONMENTAL STEWARDSHIP DEPARTMENT/

NEW BEDFORD CONSERVATION COMMISSION

CITY OF NEW BEDFORD
SCOTT W. LANG, MAYOR

PH-2, PH-4, PH-14, PH-26, PH-27

Comments of Scott Alfonse, Director,
City of New Bedford Environmental Stewardship Department
to
New Bedford Harbor Trustee Council at
November 23, 2010 Public Hearing

The City of New Bedford Environmental Stewardship Department urges the NBHTC to reconsider proposals submitted by the City of New Bedford.

The City proposals seek funding to restore habitat in the area where natural resource damage occurred. The Regional shellfish restoration will enhance shell fishing resources in New Bedford. The Acushnet River Riparian restoration project will restore a 25 foot riparian zone with native coastal shrub and meadow habitat which will increase the diversity of birds, mammals, reptiles, and insects in this area. This vegetation will filter stormwater from adjacent developed lands, improve water quality and benefit living resources within the Acushnet River.

The Palmers Island Sanctuary project will protect and preserve the native habitats on the island while permitting passive recreation. This will preserve the *only natural coastal island habitat within New Bedford*. The natural habitat of the island will be restored by removing invasive species. The project includes an educational interpretive trail, and information on the functions and values of the existing habitats.

Other proposals identified for funding seek to restore habitat or acquire land outside of the marine environment. While we support acquisition and restoration of habitat, it should not come at the expense of projects that propose to accomplish this in the marine environment most impacted by contamination.

New Bedford Harbor is one of the greatest natural assets in our City -- a resource damaged by a lack of stewardship. We need to promote stewardship and avoid repeating actions that damage this resource by reconnecting the public with and providing a better appreciation for the resource. These projects provide a direct benefit to the damaged resource, and are within walking distance -- not driving distance -- to a significant portion of the population impacted the most by damage from contamination in the harbor. By helping the greatest number of people realize the benefits of this natural resource, we will be creating the next generation of stewards and ensuring long term protection of New Bedford Harbor.

The projects proposed by New Bedford are among the most relevant – one of the criteria that the Trustee Council considered in their evaluation. *New Bedford's projects enhance natural resources in an area where damage occurred. They give the largest ecological and economic benefit to the greatest number of people affected by the injury to*

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the natural resource, and will enhance the public's ability to use, enjoy or benefit from the harbor environment. Other projects selected for funding do not meet all of these criteria.

The process used by the Trustee Council needs improved transparency to demonstrate that funds are used appropriately. The Trustee Council justified its decision not to fund projects by stating that "...the project received a low score in the merit ranking." The Trustee Council has not made public the merit scores used to rank projects or copies of applications selected for funding. I urge the Trustee Council to make this information available.

Thank you for this opportunity to comment.

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Steven C. Sharek
25 Ricketson Street
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PH-1, PH-2,
PH-18, PH-19

Testimony to the New Bedford Harbor Trustee Council
November 23, 2010

My name is Steve Sharek. I've lived almost my entire adult life in this region, about half of it in the City of New Bedford, half in the Town of Dartmouth. I've been an elected official in both communities. I served as a member of the City Council in New Bedford. I currently serve as the Town Moderator in Dartmouth.

I don't come here as an elected official. In fact, my comments tonight won't win me any friends – or votes – in my hometown.

I come here as a private citizen who's watched his region systematically plundered and abandoned by private industry, by politicians, and by the state and federal government. With few exceptions, people in this region – particularly those in New Bedford – have been treated like second-class citizens. When economic opportunity is created, we are often last in line – or not allowed in line at all.

I come here as a person concerned about fundamental fairness.

The funds you administer were set aside to help compensate for the environmental assault and degradation suffered by this city and its residents. The money ***wasn't*** put aside to help restore wild birds on the islands off Marion, Mattapoisett and Cuttyhunk or salt marshes at Round Hill in Dartmouth. Dartmouth is the town in which I live and which I represent as an elected official.

Don't get me wrong: I'm an environmentalist. I love wild birds and salt marshes. I'm not ***against*** either project. That's not the point. I also know that we live together on one planet and what we do in one place affects every other part of the planet. In short, I know you ***might*** be able to justify on ***slim, purely scientific grounds*** spending millions of dollars in areas not directly hurt by PCBs in New Bedford Harbor. I know you ***might*** be able to do that. I urge you not to try.

The dumping of PCBs almost killed our river. It cut off fishing, shellfishing, swimming, recreation. It left us with national headlines, embarrassment, and economic loss. It created a stagnant cesspool, virtually unusable for any purpose.

Decades later, we are still trying to recover. This money – the Harbor Trustee Council money – was put aside to help us restore our natural resources.

In this final round of funding, the City of New Bedford submitted several strong proposals to the Harbor Trustee Council. At this point, it looks like the Council is not recommending <u>any</u> of them. This is simply unfair.

Mayor Lang has said he will sue the Harbor Trustee Council if it continues to blackball – continues to shutout – the City. This is no idle threat. If I were Mayor, I'd do the same thing. Frankly, so would you.

So here's your simple choice: You can divert the last few million dollars to pay for projects outside of the City of New Bedford – projects that don't benefit the City; which lack any wide public support; and whose connections to New Bedford Harbor PCB pollution are tenuous at best. You can stubbornly insist on doing this, even knowing full well that a federal lawsuit will result.

Or you can simply ***do what you already know is right*** – that is, fund the projects which actually help those who have been victimized by the PCB pollution in New Bedford Harbor.

By doing that, you could conclude your service on the Harbor Trustee Council with honor, with a clear conscience, and with thanks from a proud and grateful City.

Thank you.

Subject: Comments on Round IV New Bedford Harbor
From: John Bullard <johnkbullard@gmail.com>
Date: Wed, 24 Nov 2010 12:22:24 -0500
To: Jack Terrill <Jack.Terrill@noaa.gov>, Chris Mantzaris <Chris.Mantzaris@noaa.gov>
CC: Mark Rasmussen <rasmussen@savebuzzardsbay.org>, Scott Lang <Scott.Lang@newbedford-ma.gov>, Matt Morrissey <mmorrissey@nbedc.org>

Comment: 3, 4, 5

Hi Chris and Jack,

I'm sorry that I was suddenly called away before I had a chance to testify last night. It also meant I did not have a chance to meet the two new Trustees. I'm giving you my comments in this e-mail and I hope you will share it with them.

This final round gives you the opportunity to tie together a number of projects funded in earlier rounds and concentrate your investment on where the damage was greatest - the upper harbor.

Like many I would advise not funding Round Hill and the Tern project. You heard plenty of reasons why last night and I can't add much other than there will be other opportunities to fund projects like this, including the upcoming Bouchard triggered restoration program.

Having talked with both City officials and Mark Rasmussen of the Coalition for Buzzards Bay, I am convinced that you can make it possible for the three City projects and the two CBB projects to get done together. If it is possible for you to direct the City and CBB to present a combined plan for all five projects with the what remains of your funds and whatever the two parties can access by a certain date, I feel confident that you would see that all can be done. Perhaps there would be a few less shellfish relayed, or not as many benches or not as many bells and whistles at the Sawmill, but all projects would get done. And you would close up shop on a high note.

There would be many advantages. I'll mention a few.

1) The City and CBB are natural allies with complimentary skills that can lower costs significantly. The City can do public works at the Sawmill. CBB can obtain easements and natural resource protection on the river walk and Palmer's island. By doing what each is good at we will get better projects, done at less cost and tied together in the way they should be.

2) Combined with other projects you have funded in the upper harbor on both sides, you will have protected, restored and made accessible a tremendous portion of the most damaged part of the harbor. It will be a stunning turn around that everyone will be proud of.

3) Related to that, as access is greatly improved and public education around the harbor is provided, you will help create future generations of stewards who will ensure that the defiling of the harbor will NEVER again take place. You will leave when the money runs out. It is critical that you leave behind not just restored natural resources, but a population with a stake in the harbor who will be vigilant watchdogs protecting a resource that industry had taken from them. This will be the long term benefit of your work.

Because of the nature of argument, you may have gotten a picture of "either/or" last night. I think there is a "both/and" solution and the Trustees can bring the parties to the table to deliver it.

Good luck and let me know if I can be helpful. I am proud of my past service as NOAA Trustee. Much good work has been done. But you need to finish with a focus on the harbor itself and invest where the damage was greatest and most immediate.

Thank you for your attention.

John

John Bullard
19 Irving St.
New Bedford, MA 02740
cell 508-951-6569
johnkbullard@gmail.com

Comment: 6

DEC 2 2010

Subject: tern project
From: Alicia Crabbe <AliciaCrabbe@verizon.net>
Date: Thu, 02 Dec 2010 10:13:50 -0500
To: Jack.Terrill@noaa.gov

Dear Mr. Terrill,
As a lay person who has offered help to the tern project this year, I would like to be one vote in favor of keeping the funding for this project.
I recently gave a presentation of the history of the tern populations in New England, and in my research learned of negative impact of the pollution of New Bedford Harbor had on the tern population by contamination of their food.
It is important, even in the seemingly intangible view that our endangered species such as the Roseate Terns receive help. It is estimated that 50% of ALL the Roseate Terns who nest in ALL of North American nest on Bird Island In Marion and Ram Island in Mattapoisett. We have a need to take care of this population.
Alicia Crabbe (Rochester)

The Commonwealth of Massachusetts
HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

DEC 2 2010

ROBERT M. KOCZERA
REPRESENTATIVE
11TH BRISTOL DISTRICT
119 JARRY STREET
NEW BEDFORD, MA 02745
HOME: (508) 998-8041

Committees
Ways and Means
Economic Development and Emerging Technologies
Health Care Financing

ROOM 448, STATE HOUSE
TEL. (617) 722-2582
FAX (617) 722-2879
Rep.RobertKoczera@hou.state.ma.us

December 1, 2010

Comment: 7, 8, 9

Mr. Jack Terrill
New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Dear Mr. Terrill & Members of the New Bedford Harbor Trustee Council:

I am writing this letter to urge the council to vote against the projects recommended for funding in this round which are not located in New Bedford harbor. It is a great injustice to the people in the area directly impacted by the PCB contaminated soil in New Bedford harbor not to receive a just and equitable allocation of harbor trust funds. The harbor trust funds should go exclusively to the area directly affected by the contamination that is New Bedford, Acushnet and Fairhaven. The funding proposal by the City of New Bedford for the construction of a river walk and habitat restoration along 1.6 miles of New Bedford shoreline and Palmer Island restoration will enhance the natural resources in the harbor. The proposed restoration of shellfish beds in the Outer Harbor will help to remedy the displacement suffered by New Bedford shell fishermen. New Bedford shellfish were used for resource replenishment projects in Buzzards Bay and Cape Cod communities. A decision to fund the New Bedford projects will go a long way to restore this important water resource as well as provide for limited use of this resource by people and communities directly impacted by the harbor contamination. This is fair and equitable and necessary.

It is outrageous that funding would be allocated by members of the council representing agencies having an interest or sponsorship of projects recommended for funding. The council must realize that with the allocation of the six million dollars in this round, the three communities directly affected by the pollution and hence the area solely deserving of allocations from the harbor trust fund will realize only half of the overall allocation of funding, and that only if the New Bedford proposals are funded. If the New Bedford proposals are not funded only a quarter of the harbor trust fund allocations will have been expended in the area of impact.

I urge your review of the New Bedford proposals and acceptance of only those proposals located in New Bedford harbor.

Sincerely,

Robert M. Koczera

Subject: Stop Spending In Toxic New Bedford Harbor
From: Fnhaggerty@aol.com
Date: Sun, 05 Dec 2010 09:55:29 -0500 (EST)
To: Jack.Terrill@noaa.gov
CC: sreid@clf.org, jcosta@buzzardsbay.org, twarncke@buzzardsbay.org, rasmussen@savebuzzardsbay.org

Comment: 10

STOP SPENDING IN TOXIC NEW BEDFORD HARBOR

CONDITIONS MUST BE MET FIRST

Frank Haggerty
126 Brandt Island Road
Mattapoisett ,Ma 02739

Re : New Bedford Harbor Trustee Council Dec 5.2010

First -
The New Bedford Harbor Trustee Council has to stop spending funds on toxic New Bedford Harbor until the toxins have first been removed .

, As the Legislature entered the home stretch of the 1996 session, local lawmakers made a final push to win state aid to remove a toxic power plant. The House in 1996 passed a plan that contains $300,000 to study the possibility of converting the toxic abandoned New Bedford power plant.

Most private or nonprofit groups are unable to build any project on the site of Commonwealth Electric's closed Cannon Street power station. The cost of the toxic removal project is put at above 25 million.

Massachusetts has failed to secure EPA Brownfields Redevelopment Funds for removal of the Cannon Street Power Station. The US EPA's New England Regional office is also an integral part of the Brownfield Support Team. The publicly owned 29 acre power station has been let off the hook or has slipped through the cracks as one of the most contaminated sites in the country. The cleanup documents for the power plant are said to weigh around twenty pounds.

Second-

New Bedford Harbor is the proposed site of the Cape Wind Turbine project with millions of dollars in construction planned at the entrance of the harbor .

The announced location of the Nantucket Wind project off Blackmer Street in New Bedford Harbor is not owned entirely by the state or the City of New Bedford.The site construction could involve a former brownfield site .

There are plans to take portions of land by Eminent Domain. The owners of this property will argue the public is taking the land for public good but is overlooking the toxic abandoned Cannon Street Power Plant a few hundred feet away. The taxpayer cost to blast ledge and develop the Blackmere site is in the millions.

I urge you to review the toxic material at the Cannon Street Power Plant and the proposed consturction of twenty acres of land for a wind turbine site at the entrance to New Bedford Harbor

Thanks Frank Haggerty

Comment: 11

Subject: New Bedford Harbor
From: "Lemos, Fernando" <flemos@jaypack.com>
Date: Sun, 05 Dec 2010 13:39:15 -0500
To: Jack.Terrill@noaa.gov
CC: "Lemos, Fernando" <flemos@jaypack.com>

If what I continue to read about is accurate, I find it disturbing and irresponsible for the Council to continue to redirect funds allocated for the purpose of cleaning up the NB harbor to other (regardless how worthwhile or deserving) projects. It appears to me the purpose of the Council, by its title, is to clean up NB harbor, not surrounding communities.

The Council has a responsibility, morally and legally, to apply the funding in the way it was intended. Anything short of that is unconscionable.

I do hope the Council reconsiders.....

Fernando Lemos
Fairhaven

Subject: Harbor Trustee Council recommendation
From: Larry Almeida <ljalmeida@comcast.net>
Date: Sun, 05 Dec 2010 15:59:15 -0500
To: Jack.Terrill@noaa.gov

Comment: 8, 12

Sir:
I respectfully would ask that the Harbor Trustee Council revisit its recommendations for the allocation of the final round of grant money allocated for New Bedford Harbor restoration.
To date, the citizens of New Bedford and, in particular, the neighborhoods of the upper harbor and Acushnet River have not received a fair share of monies specifically meant for remediation of damage to the harbor and river.
I strongly urge you to grant the requests for the use of New Bedford's Upper Harbor Riparian Restoration plan; the Palmer's Island Sanctuary Project and the city's Shellfish Rehabilitation Project.
Too much of this grant money has already been spent on projects, as worthy as they may be, outside of the harbor and river area. It is clear to me that money is being diverted to some of the area's highest income areas, sometimes for problems of their own making. The remainder of these monies should be spent in their entirety on projects that reflect the Harbor Trustees Council stated goals of natural resource restoration "in New Bedford harbor".
The New Bedford harbor estuary and environment deserves no less; and neither do the citizens in the area who have been denied the use of this important resource for decades due to contamination.
Respectfully,
Lawrence J Almeida
New Bedford, Mass.
Board of Directors, Whaling City Rowing

Subject: FW: Harbor Trustee Council recommendation
From: Larry Almeida <ljalmeida@comcast.net>
Date: Sun, 05 Dec 2010 16:39:12 -0500
To: Jack.Terrill@noaa.gov

Comment: 8, 12

Sir:
I respectfully would ask that the Harbor Trustee Council revisit its recommendations for the allocation of the final round of grant money allocated for New Bedford Harbor restoration.
To date, the citizens of New Bedford and, in particular, the neighborhoods of the upper harbor and Acushnet River have not received a fair share of monies specifically meant for remediation of damage to the harbor and river.
I strongly urge you to grant the requests for the use of New Bedford's Upper Harbor Riparian Restoration plan; the Palmer's Island Sanctuary Project and the city's Shellfish Rehabilitation Project.
Too much of this grant money has already been spent on projects, as worthy as they may be, outside of the harbor and river area. It is clear to me that money is being diverted to some of the area's highest income areas, sometimes for problems of their own making. The remainder of these monies should be spent in their entirety on projects that reflect the Harbor Trustees Council stated goals of natural resource restoration "in New Bedford harbor".
The New Bedford harbor estuary and environment deserves no less; and neither do the citizens in the area who have been denied the use of this important resource for decades due to contamination.
Respectfully,
Sari S Almeida
New Bedford, Mass

Subject: STOP FUNDING NEW BEDFORD HARBOR UNTIL THE CLEAN UP IS COMPLETE
From: Fnhaggerty@aol.com
Date: Sun, 05 Dec 2010 17:09:49 -0500 (EST)
To: Jane.Lubchenco@noaa.gov, Jack.Terrill@noaa.gov

Comment: 10

STOP FUNDING NEW BEDFORD HARBOR UNTIL THE CLEAN UP IS COMPLETE

State Rep. Antonio F.D. Cabral has started a letter writing campaign through the New Bedford Standard Times to change the New Bedford Harbor Trustee Council decision in Massachusetts . The commercial wind turbine site of twenty or more acres of new construction needs review along with the 29 acres of toxic waste next to the brownfield location known as the Cannon Street Power Plant .

The original decision was correct .

Thanks Frank Haggerty ,Mattapoisett ,Ma 02739

By ANTONIO F.D. CABRAL
Rep. Antonio F.D. Cabral is state representative in the 13th Bristol District.
December 05, 2010 12:00 AM
http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20101205/OPINION/12050353/-1/NEWS

THESE ARE MY QUESTIONS :
Why does the contamination remain at the Cannon Street Station on the site of the old NStar plant on New Bedford Harbor? Even the Standard Times newspaper is aware of the contamination yet won't even publish an editorial on the subject! How quickley the newspaper prints stories about street criminals stealing a loaf of bread while these corporations maintain 29 acres of toxic waste in the heart of New Bedford. This is the real crime in New Bedford!

http://kgurbanadvisors.com/cannon_street_station/press_clips.htm

"At one point during a meeting with The Standard-Times, Stern said his firm estimated "land acquisition and cleanup costs" at more than $50 million. At another, he said the cleanup would cost "an order of magnitude more than $6 million," which translates to about $60 million.

"The site contains every type of contamination except nuclear," he said. "There's fuel oil, tar, coal tar, cyanide, lead paint, asbestos, guano (excrement from seabirds, seals and bats), asbestos and mold, and the mold is the scary part because the organics are very dangerous.

"We know what's there in the ground and in the building," Stern said. "We spent six figures to produce a book that's literally 20 pounds.

"We could get the building cleaned up in nine months," he said."

Subject: New Bedford Harbor Trustee Council Decision
From: Saltmarshf@aol.com
Date: Sun, 05 Dec 2010 23:02:36 -0500 (EST)
To: Jack.Terrill@noaa.gov

Comments: 8, 12

The recent proposal for the final funding awards is distressing. Although I live in Dartmouth and therefore should be pleased with the funding for restoration of the salt marsh at Round Hill, I feel it makes no sense whatsoever when one considers the impact it will have on the New Bedford harbor. The money should be directed to the harbor projects because it was the harbor that was polluted the most. The residents around the upper harbor are the people who lost their use of the river for both fishing and recreation. Marion and Dartmouth should not receive this money. The projects proposed by New Bedford have lasting merit to the harbor and the residents of New Bedford who, after all, were the most affected by the pollution. I urge the New Bedford Harbor Trustee Council to reverse its decision and direct the funding to the area which suffered the most damage. Please!

Sarah Brownell
322 Smith Neck Road
Dartmouth, MA 02748

Subject: Decison by New Bedford Trustee Council is a Terrible Mistake
From: Charlie <redsox8914@comcast.net>
Date: Mon, 06 Dec 2010 13:48:14 -0500
To: Jack.Terrill@noaa.gov

Comment: 8

The decision to exclude the city of New Bedford from the final four projects being funded is another terrible mistake made by governemnt entities against the city and its people. Our harbor is polluted, our shellfish industry was decimated, Aerovaox and Cornell Dublier's original owners have all benefitted.

I grew up on Roosevelt Street and still live in the South End of New Bedford. THe environmental damage wreaked on our city is only compounded by the decision which clearlt benefits the Coalition for Buzzards Bay and the well-to-do residents of Marion and South Dartmouth.

Since 1963, with the building of the unnecessary hurricane barrier, the misplaced sewage treatment plant, the SUperfund Cleanup, the actions taken to benefit the citizens of New Bedford have proven to be a litany of bureacratic bumbling, influence peddling, and worse. How could you seriously make a decision as bad as this? I pray you read your own document and revise the plan to benefit the citizens who suffered the most and profitted the least .

Sincerely yours,

Charles R. Seguer

Subject: Buzzard bay restoration tern colonies funding support
From: "mc.martin" <mariecaroline.m@gmail.com>
Date: Mon, 06 Dec 2010 16:28:28 -0500
To: Jack.Terrill@noaa.gov

Comment: 6

To the New Bedford Harbor Trustee Council

As a resident of Massachusetts and PhD student in seabird ecology working closely with NOAA NMFS/ NEFSC, I would like to inform you of my support for prioritizing funding towards the Restoration and Management of Tern Populations in Buzzards Bay. Terns are not only beautiful creatures, but they are as well environmental indicators regarding the state of our ocean.

Common tern colonies have to recover otherwise these endangered birds won't be seen along the New-England shore. Their population continues to decline, and this project could the last chance to recover. I grew up in France, where the government has been financially supporting all restoration projects around tern colonies (mostly for roseate and common terns). This is not only a problem in New-England but in many other countries as well.

Please consider placing funding priority on the restoration and management of Tern populations in Buzzards Bay.

Sincerely,

Marie C Martin

COMMONWEALTH OF MASSACHUSETTS
Division of Ecological Restoration
Tim Purinton, *Acting Director*

Deval L. Patrick
Governor
Timothy P. Murray
Lieutenant Governor

Attn: Jack Terrill
New Bedford Harbor Trustee Council
Via email

December 6, 2010

Comment: 1, 13

RE: MA Division of Ecological Restoration Comments on
NBHTC Round IV Restoration Grant Applications Environmental Assessment dated 10/18/2010

Dear Mr. Terrill,

The Massachusetts Division of Ecological Restoration (DER) offers the following comments specifically for two projects proposed for funding in the Draft Round IV Environmental Assessment – **Round Hill Salt Marsh Restoration and Acushnet Sawmill Ecological Restoration**. DER strongly supports Round IV funding for both of these projects which offer significant opportunities to restore critical habitats within the New Bedford Harbor Environment, helping to recover damaged natural resources.

Located directly north of the Town-owned beach at Round Hill Point and east of the Meadows Shore Marsh complex in Dartmouth, MA, the **Round Hill Salt Marsh Restoration Project** will restore between 6.9 and 11.6 acres of historically-filled salt marsh. This site presents a rare and superb opportunity to restore a large, contiguous area of salt marsh through the removal of fill material, re-creation of salt marsh plane, and excavation of historic tidal channels. Round IV funding will build off the results of Round III funding for project feasibility and design, and will bring this project to completion. Project implementation will generate significant environmental and human benefits identified as priorities by the Trustee Council and New Bedford Harbor stakeholders, including:

- *Marshes and Wetlands* – Benefits will be achieved by directly restoring historically-filled salt marsh and its associated functions and values that have been severely degraded within the New Bedford Environment.
- *Recreation Areas* - Public benefit will be derived from the restored habitat for marine species and the construction of a perimeter walking trail for passive recreational purposes. A functioning salt marsh at this location will also provide increased passive recreation opportunities, such as bird-watching, and increased public awareness of habitat values through interpretive signage adjacent to the publicly-accessible beach.
- *Water Column* - Restoration of Round Hill Salt Marsh will enlarge the valuable tidal system of the adjacent Meadows Shore Marsh, facilitating stabilization of the tidal inlet which under current conditions periodically closes due to sedimentation and thus suffers from intermittent episodes of poor water quality.

- *Habitats* - Restoration of Round Hill Salt Marsh will restore critical habitat for fish, shellfish, and other marine and avian species injured by the New Bedford Harbor contamination.

The **Acushnet Sawmill Ecological Restoration Project**, located at the mouth of the Acushnet River and head of the New Bedford Harbor Estuary, will restore a diverse assemblage of ecological habitats at the 19-acre former Acushnet Sawmill property. Building upon the recently-completed Acushnet Sawmill Dam Fish Passage Project, this ecological restoration project will employ fill removal, removal of impervious surface, re-grading, and re-planting to restore hydrologic connections, riverbank, natural riparian edge, and freshwater wetlands. Similar to the Round Hill Project, with initial feasibility and conceptual designs completed under Round III, this is a viable restoration project that will provide significant priority environmental and human benefits as identified by the Trustee Council and New Bedford Harbor stakeholders, including:

- *Mashes and Wetlands* - Benefits will be achieved by directly restoring various diverse wetland types including riparian marsh, emergent marsh, and wooded swamp which provide connectivity between upstream freshwater systems and the tidal environment.
- *Recreation Areas* - Benefits will be achieved by providing significant public access to restored natural resources and park amenities on a previously closed commercial property. Additional recreational and educational opportunities may be available through hiking trails, a canoe / kayak launch, and interpretive signage.
- *Water Column* – Removal of impervious surfaces will reduce run-off and improve or prevent further degradation of water quality downstream. Increasing the acreage of freshwater wetlands and restoring wetland functions, including their ability to filter pollutants, will further improve the quality of waters entering the New Bedford Harbor Estuary.
- *Habitats & Living Resources* - Restoration of the Acushnet Sawmill includes restoration of both aquatic and upland habitats that support spawning, breeding, nesting, and nursery habitat for fish and wildlife injured by past contamination. In particular, this site will include restoration of habitat and habitat connectivity critical to the spawning of anadromous fish such as river herring.

Both the Round Hill Salt Marsh and Acushnet Sawmill Ecological Restoration projects were first identified in the *New Bedford Harbor Environment Wetlands Restoration Plan* (WRP, 2002) as unique and significant opportunities to restore historically-degraded and filled wetlands supporting species and habitats that were injured by past contamination of the New Bedford Harbor Estuary. Recognizing the importance of these projects to the future health of the New Bedford Harbor ecosystem, DER designated them as Priority Projects and is committed to helping partners see them through to completion. I encourage the Trustee Council to finalize its funding decision in favor of these projects that will produce significant benefits for the New Bedford Harbor Environment.

Sincerely,

Hunt Durey

Hunt Durey
Acting Deputy Director

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

6 December 2010

Comment: 6

New Bedford Harbor Trustee Council
Attn: Jack Terrill, Administrator
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930-2298

Dear Trustees:

I attended the 23 November 2010 public hearing on the four projects that the New Bedford Harbor Trustee Council prefers to fund in this last funding round. One of these projects, *Restoration and Management of Tern Populations in Buzzards Bay*, was submitted by this agency, the Massachusetts Division of Fisheries & Wildlife (MDFW).

At this meeting, many speakers spoke out against the two projects for which funds would be directed to sites that do not directly border New Bedford Harbor: the tern project and the Round Hill project. While we propose to use funds to restore endangered Roseate Terns and Common Terns on the ground at nesting islands in Marion, Mattapoisett, and Gosnold, the communities surrounding New Bedford Harbor will and do currently benefit from this work, because the terns nesting on these islands are the source of the terns foraging in New Bedford Harbor. It is true that this project will benefit many communities bordering Buzzards Bay, not just those bordering the harbor, because terns are long-distance foragers, sometimes traveling 20 miles from the islands to hunt for fish to bring back to the islands for their young. **As top predators in the marine ecosystem, terns are a vital part of a healthy New Bedford Harbor environment,** and Buzzards Bay in general.

In fact, a couple of the speakers at the public hearing commented on the abundance of terns in the harbor these days. This was gratifying. Over the past decade, we have been able to do significant restoration because of the consistent funding the Trustee Council has provided. **During this period of Trustee Council funding, numbers of terns have grown from 5,000 pairs to 8,000 pairs!** This increase, however, is due to an increase in Common Terns. **Roseate Terns remain highly vulnerable**, and are in need of the continued protection that additional funding makes possible. Populations of both species are still far below historic numbers.

One or two speakers also commented that Bouchard oil spill settlement monies should be used instead of New Bedford Harbor settlement monies to fund the tern project. While the Bouchard spill certainly underscores the vulnerability of terns in New Bedford Harbor and Buzzards Bay, I think there is a misconception that the recent settlement can be used for terns. As you know, this settlement was to compensate for injuries to resources other than terns, for which injury has not

yet been determined. The amount of Bouchard settlement monies to be directed towards terns, if any, remains unknown. Additionally, such monies may not materialize for years. However, it has been proven that terns were injured by the PCB release in New Bedford Harbor. Because of this, terns are one of the natural resources that are clearly eligible for Trustee Council funds, and ours was the only project submitted that would benefit rare species that were injured by the PCB release.

We understand that the Trustee Council may have difficult decisions to make in finalizing its selection of restoration projects. We are truly appreciative of the Trustees' support for restoring terns over the years and hope that the Trustees recognize their substantial and very important contribution in returning terns to the New Bedford Harbor environment. I would, of course, be glad to answer any questions that you might have. I can be reached at 508-389-6372 or carolyn.mostello@state.ma.us.

Sincerely,

Carolyn Mostello,
Coastal Waterbird Biologist

GREEN FUTURES

P. O. Box 144, Fall River, Massachusetts 02724-0144
www.greenfutures.org – info@greenfutures.org
"Citizen Action for Better Communities"

Comment: 6

December 3, 2010

New Bedford Harbor Trustee Council
C/O National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

DEC 6 2010

Dear Council,

Green Futures enthusiastically endorses the funding request from the Massachusetts Division of Fisheries and Wildlife for their project titled, "Restoration and Management of Tern Populations in Buzzards Bay."

Our members in the communities that surround Buzzards Bay are keenly aware of the difficulties experienced by rare tern species and other ground-nesting seabirds in attempting to nest on our heavily populated and developed mainland shores.

The Buzzards Bay islands, devoid of human development and ground predators, if managed properly, are the last ...and best ...areas to ensure the survival of roseate, common, and least terns as well as other Buzzards Bay rare bird species such as oyster catchers and black skimmers.

Those who recreationally boat on Buzzards Bay ...from Westport, Dartmouth, New Bedford and all the way around to Falmouth and down to Cuttyhunk ...enjoy the aesthetics of these remarkable birds and to the knowledgeable recreational fisherman these feeding terns are a sign of bluefish, stripers, false albacore or bonito lurking near the surface.

For the reasons mentioned above, and more, we support this funding request.

Sincerely,

Tim Bennett
President

Subject: Grant for New Bedford Harbor
From: carlsen9@comcast.net
Date: Mon, 06 Dec 2010 23:18:42 +0000 (UTC)
To: Jack.Terrill@noaa.gov

Comment: 8

To the council members please do the right thing and award a grant to New Bedford Harbor development
Thank you. Sincerely, Joan Carlsen

Comment: 6

Attn: Jack Terrill
Jack.Terrill@noaa.gov
Fax: 978-281-9301

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Dec 6, 2010

DEC 7 2010

Dear New Bedford Harbor Trustee Council:

I am writing to urge you to support the Restoration and Management of Tern Populations in Buzzards Bay. As a former Massachusetts resident, with family living in Salem and Gloucester, I have spent nearly all the summers of my life in the coastal regions of Massachusetts, from Cape Ann to Buzzards Bay. For me, the populations of terns in Buzzards Bay are a treasure of natural heritage and a proud reminder that Massachusetts values and preserves wildlife.

I worked on the Buzzards Bay Tern Project for three years, and continue to take trips to the islands as a volunteer. The work of the project has been an immensely rewarding experience for me, and a huge success for the terns. Working on the project, I learned methods and formed relationships which helped me successfully undertake my own research in graduate school. More importantly, the Buzzards Bay Tern Project has encouraged me as a biologist interested in conservation. The gains for the birds, and the willingness of the Trustees to advocate for these animals is inspirational. I am exceedingly impressed by the efforts of Carolyn Mostello, and all who have partnered to make this project so successful. Ms. Mostello is an excellent leader who is passionate about the restoration, and brings the best out of all who work with her. But she cannot do it alone, and needs your support to continue this important work.

While Common Tern populations have been recovering (largely due to the Buzzards Bay Tern Restoration Project), Roseate Terns were federally listed as Endangered in the Unites States in 1987, and their populations continue to decline. Please allow this project to succeed and restore the populations harmed by pollution in New Bedford Harbor by placing funding priority on the Restoration and Management of Tern Populations in Buzzards Bay.

Thank you,

Sarah Luecke Flaherty
Former Island Manager-Bird Island and Penikese Island, MA
2210 Ward St. Apt.D
Berkeley, CA 94705
978-578-0894
sarahinthefield@hotmail.com

Subject: Support letter for tern restoration project
From: mtfunnell@comcast.net
Date: Tue, 07 Dec 2010 01:34:29 +0000 (UTC)
To: Jack.Terrill@noaa.gov

Comment: 6

We, George Funnell and John Dixon are p resently the"Herring Agents and Shellfish Wardens" in Wareham. We have been lifelong hunters; outdoor enthusiasts and wildlife enjoyers and protectors. We are very much in favor of Mass. Division of Fish and Wildlife Tern Restoration Program. It is a proven program which points to eventual success. We have assisted the Division in the past and appreciate the dedicationof those in the field and management. We hope the funding will be found to complete the full program. Sincerely George Funnell and John Dixon

Subject: New Bedford Harbor Restoration Rond IV reconsideration
From: Claudia Grace <accessart@comcast.net>
Date: Tue, 07 Dec 2010 13:01:48 -0500
To: Jack.Terrill@noaa.gov

Comment: 12, 14

We are urging the New Bedford Harbor Trustee Council to reconsider the allocation of funding toward the development of New Bedford Harbor by focusing *specifically* on the needs of the City of New Bedford and its residents.

We know that the Riverwalk is not simply a 'recreational project' but rather a multi-tiered initiative which not only adds to the harbor infrastructure but also provides diverse opportunities for development, work, and leisure. This project is not only vital for the quality of life of our residents, but also a crucial piece in our projected plans for a creative economy and sound tourist base. The Riverwalk, as extension of Fort Taber Park and Riverside Park, establishes a continuum, creating an environment that *holistically* restores, conserves, and protects the natural resources *historically* enjoyed by the harbor and river. This priority is essential; only *after* it is served can we consider human service enhancement as *ancillary* benefit. Certainly, they are not mutually exclusive.

The citation that "no-action" alternative assumes that the Harbor cleanup ...will be completed in approximately twenty years" (per page 12, Round IV Grant Applications packet itemizes a most generous timeline. The Boston Harbor Island Project saw progress in far fewer years; the creation of an artificial reef between Spectacle Island and Long Island, moving of the outfall pipe from the harbor entrance at Deer Island to 16 miles out, and restoration of Spectacle Island from an oozing dump to an attractive ecosystem were completed in less than twenty years, inviting a range of species—dolphin and shark among them--to populate the area.

The EPA/General Electric Hudson River Dredging Project has already made vast strides in clean-up and restoration since its inception in 2009.
Your predicted scenario for New Bedford, under an umbrella of Natural Recovery, assumes a theoretical recovery period of 100 years. Human intervention can considerably shorten this span and bring life into the harbor once again. Funding the Bottom Habitat for Marine Species would ensure that the first steps were taken toward this end.

Furthermore, your funding of this project will remediate the environmental deficits New Bedford must currently deal with while incorporating a sound human ecology into an enhanced ecosystem. Anything less is a serious slight to the citizens who have contributed to the local, regional, and global economies while reaping concomitant toxicity. This is not only an environmental issue, but also a stand for social justice.

You are trusted with New Bedford harbor; let's keep the lens where it belongs-on the City of New Bedford and its people.

Claudia Grace
President

Captain Thomas A. Grace
Treasurer

www.accessartcorpintl.org
508-990-0857

Subject: re; N.B. Harbor Trustee Council
From: D N Dumont <dndumont@hotmail.com>
Date: Tue, 07 Dec 2010 14:26:42 -0500
To: Jack.Terrill@noaa.gov

Comment: 8

Dear Members of New Bedford Harbor Trustee Council,

I moved to New Bedford in August of 1966 from Fall River. While in Fall River I enjoyed the Watuppa Ponds, near White's Restaurant in Westport, where I swam, fished and observed nature. When I arrived in New Bedford, the Acushnet River was located 2 blocks away and everyone said " stay away from the polluted, filthy River". So I and other generations never enjoyed the natural resources of the Acushnet River.

I worked with State Rep. Roger Goyette for many years on the River cleanup and several other organizations. I attended many meetings with other individuals who live/lived in the densely populated North Front St neighborhood who avoided the River and inhaled low tide PCB particles.

Today, it would be a great improvement to have the proposed Riverwalk so that residents and others could once again, after many years, safely observe and enjoy the natural resources of the Acushnet River.

Please provide the necessary grants for the Acushnet River Harbor and estuary improvements requested by the City of New Bedford.

Sincerely,

Donald N. Dumont
118 Perry Street
New Bedford MA 02745
508-998-5430

Subject: Toxic Cannon Street Power Plant -New Bedford Harbor
From: Fnhaggerty@aol.com
Date: Tue, 07 Dec 2010 22:47:42 -0500 (EST)
To: Jane.Lubchenco@noaa.gov, Jack.Terrill@noaa.gov

Comment: 10

Follow up to 2005 news story ;Cannon Street Power Plant ,New Bedford

As the Legislature entered the home stretch of the 1996 session, local lawmakers made a final push to win state aid to remove a toxic power plant. The House in 1996 passed a plan that contains $300,000 to study the possibility of converting the toxic abandoned New Bedford power plant.

The cleanup documents for the power plant are said to weigh around twenty pounds.

http://archive.southcoasttoday.com/daily/12-05/12-22-05/a01lo272.htm

"In the longer term, the company plans to clean up the former power plant, a process that would begin next summer and cost about $3 million, Mr. Therriault said. The plant is contaminated with asbestos, lead paint and bird droppings; a section of the pier is contaminated with coal tar and heavy metals.

In its press release announcing the sale, Sprague wrote that it is "Contractually committed to the remediation of the former power plant." NStar has maintained that it wanted to be completely cleared of liability for the cost of cleanup, and that was a major obstacle in the city's ultimately failed negotiations to purchase the property. "

This story appeared on Page A1 of The Standard-Times on December 22, 2005.

http://kgurbanadvisors.com/cannon_street_station/press_clips.htm

"At one point during a meeting with The Standard-Times, Stern said his firm estimated "land acquisition and cleanup costs" at more than $50 million. At another, he said the cleanup would cost "an order of magnitude more than $6 million," which translates to about $60 million.

"The site contains every type of contamination except nuclear," he said. "There's fuel oil, tar, coal tar, cyanide, lead paint, asbestos, guano (excrement from seabirds, seals and bats), asbestos and mold, and the mold is the scary part because the organics are very dangerous.

"We know what's there in the ground and in the building," Stern said. "We spent six figures to produce a book that's literally 20 pounds.

Subject: Please reconsider your funding choices!
From: Saltmarshf@aol.com
Date: Tue, 07 Dec 2010 22:32:17 -0500 (EST)
To: Jack.Terrill@noaa.gov

Comment: 8

The projects approved for final distribution may have merit on their own but will have little impact on the health of the area short term and should be funded from other sources. You are being used because you have money and are the first and easiest source to appeal to for funding.

The projects proposed by New Bedford have lasting merit to the harbor and the residents of New Bedford who, after all, were the most affected by the pollution. I urge the New Bedford Harbor Trustee Council to reverse its decision and direct the funding to the area which suffered the most damage.

Lawrence Brownell
Dartmouth, MA 02748

Subject: NBHTC
From: Phoebe Perry <phoebedp@hotmail.com>
Date: Tue, 07 Dec 2010 21:44:18 -0500
To: Jack.Terrill@noaa.gov

Comment: 8

Dear Mr. Terrill,

Please allow me to introduce myself. My name is Phoebe Dean Perry, and I am a sixth generation Marion, MA resident.

Bird Island, it's Tern population and the restoration of Bird Island is important, but, as I have witnessed in the past, it will be taken care of by other, independent means. I have personally witnessed, many times over, Marion residents taking great stewardship strides towards what is important to them.

Six years ago, I moved to Marion as a full time resident from Bedford, New York. Upon arrival, I asked myself how I might seriously contribute to the area. Bedford, NY and Marion, MA have many resident individuals such as myself. So, the question was, where might I be of the most value?

I have been working in, and becoming passionate about, New Bedford since my full time arrival to the area. I have very fond memories of NB from my childhood. I am currently the Director of Development at the New Bedford Art Museum. New Bedford is coming back in more ways than I can begin to describe. Heard that before? Me too! The difference is, now I live it, work it and feel it every day, and I will stake my reputation on it.

You have heard all the pros and cons for each and every worthy beneficiary of NBHTC's funding. I would simply like to say that there is no more worthy beneficiary than New Bedford. Your funding dollars will do more, for more people, going to New Bedford than anywhere else. I am a big picture thinker, and every resident of Marion, Round Hill and Acushnet, as well as all the other surrounding communities, will benefit far more from the restoration of New Bedford than any of the other projects.

Thank you for your consideration of my opinion.

Respectfully,

Phoebe Dean Perry

Subject: Support for Tern Restoration and Management
From: Richard Luecke <richard.luecke@verizon.net>
Date: Wed, 08 Dec 2010 17:09:46 -0500
To: Jack.Terrill@noaa.gov

Comment: 6

TO: New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive Gloucester, MA 01930

Attn: Jack Terrill

8 December 2010

Dear New Bedford Harbor Trustee Council:

We am writing to add our support to the Restoration and Management of Tern Populations in Buzzards Bay. The terns and other marine species have taken a beating from human misbehavior, so restoring and maintaining their populations is the least we can do. And if I¹m not mistaken, the Commonwealth has collected oil spill money for that purpose.

Over the past several years, that program has benefits from the hard work and dedication of many individuals, both paid and unpaid. Let¹s not squander all that hard work! The project merits continued funding.

Respectfully,

Richard Luecke and Perry McIntosh
2 River Street
Salem, MA 01970

Subject: Fwd: New Bedford Harbor Trustee Council/ PLEASE USE THIS EMAIL!
From: Webmail ejohns <ejohns@ecoisp.com>
Date: Wed, 08 Dec 2010 11:39:06 -0500
To: Jack Terrill <Jack.Terrill@noaa.gov>

Comment: 14, 15

Dear Mr. Terrill-
I hope the New Bedford Harbor Trustee Council (NBHTC) will decide to fund all of the projects proposed for New Bedford Harbor during the Round IV Project application process. I am one of those who is concerned that 1) New Bedford Harbor is not being cleaned of PCB's fast enough--there seems to be plenty of money for bankers-- and 2)disheartened by the fact that New Bedford has not gotten its fair %age share of the HTC money, considering it is the place in the SouthCoast most damaged by PCB pollution. I understand that the proposals the NBHTC has recommended are all worthy, and if I had the money it would take in the bank, I'd let it flow to these projects. But I don't.

I will speak briefly about two projects which I am particularly concerned about.

First, I understand that NBHTC money helped fund both Fort Taber Park in the South End of NB, and Riverside Park in the North End. Both parks add immeasurably to New Bedford's quality of life. The 10 mile long Walkway along the Harbor in the South End is almost always in use. I think this is one reason so many of us are hoping to see a similar walk along the Harbor in the North End.

In addition, it is very important to me that the proposed planting area gets planted! I mention this especially because in just the last two (2) months, along Purchase Street in New Bedford,

where I live, all vegetation is suddenly gone to make way for railroad tracks and bridges. I am quite horrified that my once beautiful (if you like weeds, which I do) street has become amazingly ugly. Again, plantings add interests to neighborhoods and encourage humans to behave well towards each other. The problem is that we humans often don't realize this until the plants are no longer there. Thus I urge you to fund the Round IV proposal entitled ***The Acushnet River Upland riparian Zone Project.***

I also hope the NBHTC will fund the Palmer's Island project---- what a sensible as well as beautiful addition to the waterfront for the citizens of New Bedford, as well as for the wildlife which such a sanctuary would attract. One of my favorite places in NB is the Hurricane Dike, even though it complicates the tidal flows; to have an accessible Palmer's Island for all to enjoy would be wonderful. Therefore, I urge the NBHTC to fund the Round IV proposal entitled ***Palmer's Island Sanctuary and Interpretive Trail.***

Thank you for your attention.

Sincerely,

Emily Johns 1580 Purchase Street, New Bedford, MA 02740
508-994-2164 ejohns@ecoisp.com

Environmental Stewardship Department/

New Bedford Conservation Commission

City of New Bedford
Scott W. Lang, Mayor

December 7, 2010

8 2010

Comment: 14, 16

New Bedford Harbor Trustee Council
c/o: Jack Terrill, New Bedford Harbor Trustee Council
National Marine Fisheries, Service
55 Great Republic Drive
Gloucester, MA 01930

RE: FOURTH ROUND FUNDING RECOMMENDATIONS

Dear Mr. Terrill:

The New Bedford Conservation Commission had its own meeting on the November 23rd, and, therefore, we are submitting our recommendations via this communication. The Commission reviewed all the submissions for this last round of funding and like many others, we felt all had a sound basis for being considered.

The Conservation Commission has a long history of working with the City of New Bedford, The Harbor Development Commission and the private sector who occupy the shoreline of the River and the Harbor. Our responsibility and focus has been to remove point sources of pollution and to bring "Best Management Practices" into the design of the projects that impact these resource areas within the City of New Bedford. We strongly agree with all parties that this last round of funding needs to have a more direct impact on the actual resource areas that were damaged by the abuses of the past and rendered all but unusable by anyone other than industry. Now, is the time to change that direction because we all must be the stewards to protect and return these natural resources back to as close to what they once were for the generations to come.

Our recommendations for this round of funding are:

1. Protection of the watershed that feeds the Acushnet River by acquiring the large parcel of land that sits in Acushnet. The Conservation Commission fully understands the importance of protection of a watershed to any water body. The sooner this resource can be protected the better it is for the River and the Harbor in New Bedford. This is a vital step to assure a clean water source into the New Bedford resources for generations to come.

2. Restoration of the coast line along the upper harbor to create public access. Millions of dollars have been spent to clean up the harbor to make the resource safer for all parties that use these water bodies. The amount being requested to further clean up and create access for passive recreation for all surrounding

133 William Street, Room 304, New Bedford, MA 02740
(508) 991-6188 Tel. · (508) 961-3045 Fax

communities to use, not just New Bedford residents, is such a small but critical amount to spend to give back to the area directly impacted by the insults and ignorance of the past.

We believe that these two recommendations are in keeping with the Council's thinking and priorities and, therefore, worthy of serious consideration. We believe that both projects could be accomplished within the total funding being offered in this final round if all parties involved would re-examine their request with an eye towards accomplishing both proposals.

Lastly, the Conservation Commission's legal responsibility has always been to protect and preserve natural resources listed in the Wetlands Protection Act. To this end, we have strived to push the limits allowed and sometimes beyond with an applicant's cooperation, to include the Best Management Practices for all activities related to this wonderful water body. Our recommendations can be supported by science as they will assure and improve water quality into the future while dealing directly with the negative impacts of the past that has denied the public direct access to this beautiful, natural resource.

Respectfully submitted,

City of New Bedford

On behalf of the Conservation Commission

JG/sd

133 William Street, Room 304, New Bedford, MA 02740
(508) 991-6188 Tel. · (508) 961-3045 Fax

Chris Buelow
The Trustees of Reservations
290 Argilla Road
Ipswich, MA 01938
978-356-4351 x 4011
cbuelow@ttor.org

03 December 2010

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Comment: 6

Dec 8 2010

Dear New Bedford Harbor Council Trustees,

As an active partner in the Buzzards Bay region, The Trustees of Reservations (TTOR) would like to express their support for the Massachusetts Division of Fisheries and Wildlife's program to Restore and Manage Tern Populations in Buzzards Bay. TTOR feels that this Program has proven to be highly effective in achieving its goals to date, and in many ways TTOR has looked to this Program as a model to guide our own tern management efforts. The success of the Program's active management has been clearly demonstrated over the years, resulting in robust populations of its otherwise rare and geographically limited target species -especially the Federally Endangered Roseate tern – and resulting in Buzzards Bay being in the international spotlight as a research hub for tern management and tern life history issues. TTOR feels that the continuation of funding for this project would be in direct alignment with the intent of the establishment of the fund, and would continue to be a great benefit to the Buzzards Bay community.

Sincerely,

Chris Buelow

Coastal Ecologist – Trustees of Reservations

CITY OF NEW BEDFORD
SCOTT W. LANG, MAYOR

PH-3, PH-5, Ph-6, PH-7, PH-8, PH-9, PH-10, PH-11, PH-12, PH-13, PH-14, PH-15, PH-16, PH-17

November 23, 2010

Jack Terrill, Coordinator
New Bedford Harbor Trustee Council
55 Great Republic Drive
Gloucester, MA 01930

Dear Mr. Terrill:

I am very appreciative that the New Bedford Harbor Trustee Council (NBHTC) came to New Bedford so quickly after the NBHTC Round IV preliminary funding decisions were released, and I appreciate the opportunity to provide written input on these funding decisions. As you know, not a single project proposed by the City of New Bedford was selected for funding in this most recent round. If these preliminary decisions are allowed to stand, it will represent a gross injustice and a lost opportunity to restore some of the natural resources of New Bedford Harbor, which were degraded and destroyed through decades of industrial pollution. This is an outcome that can be acceptable to no one.

I believe that the proposals made by New Bedford have tremendous merit from the perspective of restoring what had been lost, as a result of PCB contamination in the Acushnet River, the Upper Harbor, and the Outer Harbor. They enhance the quality of life for the residents of this city, connecting the city back to the waterways that were spoiled by industrial contamination. I believe that these projects are tremendous economic drivers for the city, and as we look forward, we are still hearing from EPA that it may take as much as thirty or forty years to clean up our Superfund site. To begin to clean up the areas that are damaged and begin to restore these areas to bring people back and to restore balance is something that is extremely important and something that we do not take lightly. I believe that as ground zero of the pollution and contamination, we presented projects that certainly deserved more than a vote of no merit- an insult and an affront to the people who bear the brunt of the contamination.

We asked for each of the project proposals and the balance sheets indicating how the Harbor Trustee Council made its decisions, but we were told that they were not available. We subsequently submitted a FOIA request. Not only was this not a transparent process as it was occurring, but at the end of the day the window curtains remain closed. They need to be opened to allow light in to show exactly what was in play here. It took 21 months to receive notice of

133 WILLIAM STREET • NEW BEDFORD, MA 02740 • TEL. (508) 979.1410 • FAX (508) 991.6189

the outcomes of this most recent funding round, on the eve of Veteran's Day when the media's attention was focused on the holiday, which I found quite curious especially given that the awards had nothing to do with New Bedford. The process through which the selected proposals were chosen remains unclear. Such a lack of transparency calls into question the credibility of the resulting decisions, and it is on this basis that the NBHTC should release detailed information on the evaluation process and the final scores for each proposal.

The NBHTC composition has changed significantly since the Round IV preliminary funding decisions were made, with 2 out of 3 current members appointed since that time. I believe that in light of the questions surrounding the process, the new trustees should have the opportunity to re-evaluate the proposals submitted.

We are faced with an unusual situation: two of the three projects selected for funding during this round have been proposed by the government itself. The first is the Salt Marsh Restoration at Round Hill, which was sponsored by NOAA, and the second, the bird sanctuary proposal, was sponsored by the state Division of Fish and Wildlife. It was explained to me that the NBHTC representatives abstained when their proposal was voted on, and we have seen that method of tainted deliberation before. There are only three people on the Council, and if one abstains there are only two votes left. They were then afforded a preferred status by the two votes, and both proposals were funded. The government decided where the money would go, favoring their in-house proposals while the projects proposed by the City of New Bedford were ignored.

Over the past funding rounds, while New Bedford has suffered the most severe environmental impact as a result of the industrial pollution that led to the creation of the NBHTC and its resource pool, New Bedford projects have not been funded at a level that reflects this reality. A majority of the funds have supported projects in suburban communities that were only tangentially impacted by the Harbor's pollution, or not impacted at all. Up until now, New Bedford has received approximately 33% of the $19 million allocated.

In Round IV, we have the opportunity to concentrate the remaining $6 million in resources on New Bedford projects, mitigating the deeply troubling historical use of these funds. If we do not change the preliminary decisions, New Bedford will have received only 25% of $25 million allocated- this equals twenty-five cents on each dollar awarded. However, if you fully funded the New Bedford projects during this round, exhausting the $6 million of this funding round, New Bedford will have received fifty cents of every dollar- a small amount of money against the scale of the damage that was done.

The projects that the government has sponsored should be removed from consideration for funding. The Acushnet Sawmill Restoration project would complement our projects, but should not be considered before the City's projects are funded. We cannot prioritize this over a riverwalk that would encircle the upper harbor through New Bedford, go into Acushnet, and into Fairhaven. We will help find funding sources for the Acushnet projects after our projects begin. We must first fund the three New Bedford proposals. The riverwalk will connect the people to the harbor once again. There is significant economic development occurring along its banks, and we are planning a crew course- it is imperative that we continue with this revitalization. Palmer's

Island has a strong and diverse history as an important part of New Bedford, as a place of recreation and cultural heritage. It has been inaccessible to the people of this city for the past hundred years, much like the river. It will provide a sanctuary for wildlife, but will bring people out to the island. Lastly, shellfish restoration is a project that has been left to the sidelines for far too long. If you are looking to see a species that was harmed as a result of PCB contamination and needs to come back, shellfish is a primary example. Beyond recreational purposes, many families engage in shellfishing as an economic activity. Shellfish restoration must be included in this funding round again. This is a situation in which we must put the funds where the harm took place.

The NBHTC should go back and reevaluate these proposals, including the full input of the two new trustees in the process and focusing on the proposals within the target area that New Bedford has concentrated on and that we believe should be fully funded. One further note: upon review, it is ironic that just the administrative costs of maintaining this Council could have funded every project north of the Wood Street bridge.

On behalf of the citizens of New Bedford, I look forward to your fully transparent reconsideration of these proposals.

Sincerely,

Scott W. Lang
Mayor

Subject: New Bedford Harbor Council preliminary decisions
From: Patricia Thornton <pmcthornton@comcast.net>
Date: Wed, 08 Dec 2010 08:32:16 -0500
To: Jack.Terrill@noaa.gov
CC: mmorrissey@nbec.org, scott.lang@newbedford-ma.gov, John Thornton <jhavensthornton@gmail.com>

Comment: 8, 12

Dear Mr. Terrill and the New Bedford Harbor Trustee Council;

My husband and I are citizens of New Bedford, after moving here 25 years ago from Boston to raise a family. We both are educated responsible citizens who would like to see New Bedford recover from past damage and move forward with prosperity.

The decisions of the New Bedford Harbor Trustee Council that passes over all three of the city's proposed projects for funding is not reasonable and will be another set-back for the city as it works so diligently to reach its "tipping point" to reach its full potential.

We have read about the Council's recent funding decisions and would like to add my voice to the Mayors and other citizens. My husband and I are in accord with the statements made by residents of this area regarding your preliminary decisions and agree with Mayor Lang's statement below:

"I believe that the proposals by New Bedford had a tremendous amount of merit," said Mayor Scott W. Lang. "They enhance the quality of life for all of the individuals of this city. ... I believe that they are tremendous economic drivers for this city, which has been stunted as a result of the PCB contamination."

The remaining trustee council funding should be spent on projects where the original harm took place, said Lang. "We need you to do what's right, appropriate," he said. "We ask you: reconsider our proposals."

This is an important and timely decision. **Therefore we respectfully ask you and the council to please reverse its preliminary funding decisions and award funding for New Bedford's proposals.**

Sincerely,
John and Pat Thornton

Subject: We agree that NEW BEdford
From: bussink-jenkins <bussink-jenkins@comcast.net>
Date: Wed, 08 Dec 2010 02:23:09 -0500
To: Jack.Terrill@noaa.gov

Comment: 12, 14

which saw the greatest damage from PCBs should get at least 50% of all funding from all rounds. It is simply beyond comprehension that all the New Bedford's projects were bypassed in this final round of awards. BOO BOO BOO. Please reconsider.

We are planning a condominium project along the river which would directly benefit by the Riverwalk. Our market research indicates that potential buyer of our condominiums see this as a major amenity. Lets work towards a better future for New Bedford and its current and future residents. Thanks for your consideration, Bart Bussink

Jenna Garvey
101 Colonial Drive #125
Ipswich, MA 01938

December 4, 2010

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
Attn: Jack Terrill

Comment: 6

DEC 9 2010

RE: Support for the Tern Project

Dear Mr. Terrill:

I'm writing today to voice my support for the MA Natural Heritage and Endangered Species Program (NHESP) Tern restoration project in the hopes that this project will receive the funding it needs in order to continue.

As someone who appreciates wildlife and who loves the outdoors, it is my sincere hope that this project can be allowed to continue; especially since it appears to be having such a positive impact on state-listed rare terns. Terns are a natural and integral part of our coastal ecosystem and it would be tragedy not to help them in any way that we possibly can- especially since it's clear that they are in desperate need of our help. I can not imagine what it would be like to go to the ocean and not observe these magnificent creatures in action. Please continue to fund this extremely important project so that Massachusetts can count on a future that includes terns.

Sincerely,

Jenna Garvey

Comment: 7, 16

To the Editor:

All four projects mentioned in the report on the Harbor Commission's decision to deny funding for the cleanup of New Bedford Harbor are necessary and should receive funding. The reclamation and transformation of the Acushnet River and adjacent farmland, the protection of endangered terns and the restoration of the salt marshes at Round Hill in Dartmouth are all worthy and necessary projects, but the commission's decision to withhold funding from New Bedford funding is unconscionable. A city that was literally dumped on for years should not be slighted or bypassed by NOAA. New Bedford was dumped on for years by various industries, and allowing PCBs and other known toxins to remain in New Bedford Harbor is a great environmental injustice.

I cannot understand why the Harbor Commission would turn the clock backward to an era when people pretended that pollution from smokestacks and runoff from various manufacturing processes didn't exist. It's not logical, it's not fair and it's not sound economics to delay the restoration of the harbor. The harbor cleanup and riverwalk ecological preserves would transform New Bedford into a European-style city with safe access to the Bay and the same kinds of recreational activities Dartmouth residents have been enjoying for years.

At the very least, the funds should be wisely apportioned among all the communities, with New Bedford receiving its fair share. The Dartmouth marshes definitely need restoration and conservation after construction runoff and other contaminants have leached into the Bay, but the New Bedford Harbor cleanup should not be put off any longer. The environment of all of our South Coast communities is precious, and all affect and are affected by the health of Buzzards Bay.

Laurie Robertson-Lorant, Dartmouth

Subject: Buzzards Bay Terns
From: Perry McIntosh <perry.mcintosh@verizon.net>
Date: Thu, 09 Dec 2010 16:45:52 -0500
To: Jack.Terrill@noaa.gov

Comment: 6

Dear Mr. Terrill:

I am writing to urge you to support the Restoration and Management of Tern Populations in Buzzards Bay. As a Massachusetts resident, I treasure our beaches and all the wildlife they support. The populations of terns in Buzzards Bay as well as at other spots on our coast are important to our environment and to our state.The Buzzards Bay Tern Project has had a positive impact on the terns in the area. The gains for the birds, and the willingness of the Trustees to advocate for these animals are inspirational.

While Common Tern populations have been recovering (largely due to the Buzzards Bay Tern Restoration Project), Roseate Terns were federally listed as Endangered in the Unites States in 1987, and their populations continue to decline. Please allow this project to succeed and restore the populations harmed by pollution in New Bedford Harbor by placing funding priority on the Restoration and Management of Tern Populations in Buzzards Bay.

Thank you,
Perry McIntosh

978-745-5325

9 December 2010

Emily MacKinnon
469 Slocum Road
Dartmouth, MA 02747

Comment: 6

New Bedford Harbor Trustee Council
Attn: Jack Terrill
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Re: Buzzards Bay Tern Restoration Project

Dear Mr. Terrill,

I am writing in support of the Massachusetts Division of Fisheries and Wildlife's (DFW) proposal for the ***Restoration and Management of Tern Populations in Buzzards Bay***. I work as an Ecologist for the Nantucket Land Council in Nantucket, MA, and own a house with my husband in his hometown of Dartmouth, MA. We spend a lot of time in Dartmouth and surrounding Bristol County and are very interested in the historical and recent environmental issues of the area.

In the spring of 2004 I spent two months working on Muskeget Island, off the west coast of Nantucket, as part of an ongoing effort to restore this historically significant nesting site for Roseate and Common Terns. This project was initiated in the late 1990's by various groups and agencies concerned about the loss of breeding habitat for these birds. The project faced many difficulties including the remoteness of the island, the explosion of gull populations and in the end, lack of funding.

Buzzards Bay has continued to be one of the primary nesting sites for these state listed terns. It is tragic that in addition to the direct loss of habitat caused by increased human development, these birds have been indirectly impacted through the release of pollutants, such as PCB's, into our bays and harbors.

It is clear that without the successful management of the Roseate Tern breeding populations in Buzzards Bay, the future of this species is grim. The restoration and management work proposed by the DFW includes physical improvement and protection of the nesting habitat, educational initiatives for the community, continued evaluation of bird exposure to PCB's, and ongoing monitoring of tern abundance and productivity. Massachusetts DFW's work on the Buzzards Bay nesting sites of Bird, Ram and Penikese Islands is crucial to the recovery of these historically and ecologically significant birds. I hope you will agree and approve funding for this project. Thank you for your time.

Sincerely,

Emily MacKinnon

Emily MacKinnon

Subject: Tern Restoration Project
From: "Ezra L." <lencere@gmail.com>
Date: Thu, 09 Dec 2010 18:53:27 -0500
To: Jack.Terrill@noaa.gov

Comment: 6

Dear New Bedford Harbor Trustee council,

I was thrilled to hear about your interest in the MassWildlife Tern Restoration Project. I worked as a tern-island manager with MassWildlife for two years, and I found the Tern Project to be a successful and important conservation effort. The Tern Project focuses activities on three breeding colonies in Buzzards Bay, but I believe that the rewards from this conservation effort are really shared among all of the coastal Massachusetts communities that call Buzzards Bay Home. My one goal in this letter is to share with you why I think the Tern Project is a valuable and important resource for all of Southern Coastal Massachusetts.

The MassWildlife Tern Restoration Project is an exemplary model of scientifically informed conservation management. I cannot stress enough how much work goes into the project and how effective that work is. Carolyn Mostello has put together an excellent conservation program that combines scientific monitoring, habitat restoration, land management and community outreach. The result is a project that identifies issues important to the conservation of tern populations, and uses that information to enact informed management decisions. This type of conservation management works. Tern populations in Buzzards Bay have improved since the start of the project. With future efforts, Common and Roseate Terns will continue to be a presence in the communities of Southern Massachusetts.

The Tern Restoration Project also has broader impacts on society such as in education. For example, the project has an explicit outreach mission that is accomplished through an informative website and through direct community interactions. But also, the Tern Project hires many young people (such as myself), and gives them great experience in field biology and on the ground biological conservation. Many of us have gone on to careers in science (including myself) or careers in teaching. We learned a lot working on the Tern Project, and have taken those experiences with us as we pursue our own paths in life.

Ultimately, I think the rewards from the Tern Project are felt by the coastal communities of Buzzards Bay. Terns disperse from their breeding islands to feed in estuarine environments from Marion to New Bedford. They are a part of the ecosystem and a part of the history of coastal Massachusetts. I grew up on the coast of Massachusetts and I believe that our culture and history are intricately tied to ocean environments. We were whaling communities. We are cod and striped bass fishing people. We are sea-bird watchers and beach-combers. Terns are beautiful and charismatic animals. I can imagine education programs that use local terns to teach K-12 students about their local environment and history. Seeing terns in Buzzards Bay is exciting and is a sign of the health of our coastal areas. We are stewards of the environment in that we can work towards the world that we *want* to live in. Could we even imagine a year without terns in New Bedford? The ultimate importance of the Tern Project is in the world we wish to live in.

I think it is wonderful that the New Bedford Trustee Council has taken an interest in the Tern Restoration Project because it is truly a project that has far reaching impacts for both the health of our ecosystems and communities.

Sincerely,

Ezra Lencer
Graduate Student
Department of Ecology and Evolutionary Biology,
Cornell University

Subject: Comments on Round IV Applications
From: Karen Vilandry <kav704@yahoo.com>
Date: Thu, 09 Dec 2010 20:18:03 -0800 (PST)
To: Jack.Terrill@noaa.gov

Comment: 7, 14

To: Jack Terrill and Members of the New Bedford Harbor Trustee Council

I would like to formerly enter my comments to you on the Round IV Applications submitted for the remainder of the funding for restoration projects in New Bedford Harbor.

While reviewing the Comprehensive Environmental Response, Compensation, and Liability Act, (CERCLA), its primary focus is to seek monetary damages or compensation from polluters for injury, destruction, or loss of natural resources resulting from releases of specified hazardous substances, (in this case PCBs). As stated, these damages must be used to "restore, replace, or acquire the equivalent of the natural resources that have been harmed."

Further, I read that the Trustee Council proposes undertaking environmental restoration in New Bedford Harbor to restore natural resources injured by PCB releases, restore human uses of natural resources including public access, and to "improve aspects of the human environment of New Bedford Harbor that have been degraded by the Harbor contamination (NBHTC 1993)."

Some of the applications submitted that have been rendered, "PREFERRED", have nothing to do with New Bedford Harbor nor have they been injured by PCB releases as stated above. With New Bedford Harbor being classified as New England's Number 1 Superfund Site, the primary attention must be kept to New Bedford Harbor only.
With damage being done to New Bedford Harbor by PCB releases affecting water, fish, shellfish, humans, land, and air, it makes perfect sense to concentrate all of the remaining monies to restoration of New Bedford Harbor.

While Shellfish Restoration, Enhancement of Bottom Habitat for Marine Species, and Lobster Stock Replenishment are a concern, it seems wise to address these issues after the dredging work has been completed should you decide to allocate monies for these projects and hold until then.

In the meantime, the one project that seems to fit the bill perfectly now to "restore, replace, or acquire the equivalent of the natural resources that have been harmed", and to "restore human uses of natural resources including public access" is the Acushnet River Upland Riparian Restoration Project. This location is the most affected in New Bedford Harbor by PCB releases being so close to the source of contamination.

Please select this project as the one most appropriate for the remainder of the funding.

Thank you for your time and consideration in this.

Sincerely,
Karen A. Vilandry
34 Huttleston Avenue
Fairhaven, MA 02719
Tel. 508-951-1184
Email: kav704@yahoo.com

Subject: Projects for New Bedford
From: Steve Martins <Steve.Martins@newbedford-ma.gov>
Date: Fri, 10 Dec 2010 01:09:15 -0500
To: Jack.Terrill@noaa.gov

PH: 1, 2, 3, 4

Dear Mr. Jack Terrill and Members of the Council:

I apologize in advance for not getting you this email earlier as I stated when addressing the board last month at the Hotel. Here are my words in writing for your record and I hope you can re-consider your decision on funding our projects in New Bedford.

I wanted to thank the New Bedford Harbor Trustee Council for allowing this public hearing to take place and to voice our concerns in regards to funding these important projects for the City of New Bedford. I also want to thank everyone who is here tonight, who I am sure the Trustee Council will be hearing from and who share the same concerns I do and will be asking the Harbor Council to reverse its decision. I also wanted to apologize in advance for leaving early as I have to attend a City Council meeting and my colleagues who were here tonight had to leave for the meeting and has asked to be recorded in support of reversing the decision here tonight.

First, I want to make it clear that I'm sure all the projects proposed to this Council have high merit to be funded, including the choices this Council made to fund projects in the towns of Acushnet, Dartmouth, and Marion - there's no question that all projects proposed deserve consideration because of their high importance to the community, but my frustration comes with this Council giving New Bedford a low score in the merit ranking on all submitted applications we put forward - my frustration is shared by many of my colleagues on the City Council who will be filing a motion tonight, many of our constituents, especially in my Ward that I represent, and many others across our great city.

To exclude each and every single New Bedford project seems impossible. It is just incomprehensible. To exclude the proposals from the very city with the most environmental damage can only bring speculation that more is at work in the decision making process than "merit rankings". Anyone who has reviewed the New Bedford proposals for funding outside this Council, to our very own City Employees' who worked hard in gathering this information and putting together our requests, and to all the community partners and residents who have been involved by gathering there input with these projects from day one, can see that these projects are worthy of funding and do have HIGH merit - for New Bedford not to receive a dollar by this Harbor Trustee Council can only bring speculation. So goes my frustration....

But now the message is clear and right out in the open - a message from the New Bedford Harbor Trustee Council that New Bedford has been ignored and upset many of us; including the people that this City Council represents everyday. But, my colleagues and I cannot sit by and let this message ring out without an answer and if there is to be fairness, if there is to be merit, there must be reconsideration of this decision.

The decision to reject the proposed restoration of the Acushnet River Upland in New Bedford must be changed. The proposal which I know the Harbor Council is aware of includes many important points to restore the area, including the removal of all debris, minor grading and placement of clean soil/loam to support proposed plantings and many native vegetation that was all included in the proposal, including a pedestrian walkway. The benefits from this project only show positive benefits for all of us in the long run, including our neighboring communities.

In order to "improve aspects of the human environment of the New Bedford Harbor that have been degraded by the Harbor Contamination", one must first improve the human appreciation for the natural resource. The lack of appreciation for the harbor and the disrespect for the environment that is impacted by the harbor are the root causes of the cavalier actions that contaminated the harbor in the first place. People will use a resource in a way that they believe benefits them.

The harbor was used as a dumping ground for contaminants because it was viewed as nothing more than a convenient and disposable economic tool rather than a treasured natural resource. This proposed project would serve to positively connect the largest population in the area directly to that resource. That connection promises to alter views and attitudes about the value of the resource. It teaches that preservation of the resource will provide the greatest benefit. It brings about lasting change in the human environment that protects the natural resource not just now but for years and generations to come.

The New Bedford Harbor Trustee Council has the opportunity to follow the criteria properly and it has the opportunity to end all speculations of this decision made and have all of us stop wondering what the motive behind this all can be. There is no need to address or change those speculations or motives, if any; just a need to change the decision and approve our city projects, including the restoration project of the Acushnet River in New Bedford. The Trustee Council has the opportunity to do that, and do what's right.

New Bedford already has and deserves nothing less.

Thank you again for your time and having my statement on the record.

Steven Martins
Ward 2 City Councillor

273 Shaw Street - #3
New Bedford, MA 02745
Home: (508) 995-2749
Office: (508) 979-1455
Fax: (508) 979-1451

Email: Steve.Martins@newbedford-ma.gov

William A. (Bart) Fessenden
10 Marine Avenue
West Wareham, MA 02576
Fessos@comcast.net
(H): 508-748-6694 / (C): 508-331-1874

Comment: 6

December 9, 2010

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Dear Mr. Terrill:

I would like to offer to the Trustees my thoughts on the Tern Restoration Project. As an avid fisherman and Charter boat Captain out of Wareham, I spend a lot of time in Buzzard's Bay, the Elizabethan Islands and Martha's Vineyard. When we motor out into the Bay, two things come to mind as we approach our day: (1) the state of the sea; and (2) do we see birds. Anyone who has fished these waters knows that if you want to find the fish, the first thing you look for is the birds. If they're working, something's happening. Over the past few years, we've noticed larger numbers of terns at Bird Island. It resembles a large beehive when you motor by. It's obvious that the work the Restoration Project is doing is having a positive effect.

I think I speak for everyone in the industry that it is important to maintain the habitat and preserve the specie for the next generations to come.

Thank you for letting me offer my thoughts.

Sincerely,

Captain Bart Fessenden

Shooting Star Charters

West Wareham, MA

City of New Bedford
MASSACHUSETTS

Office of City Council
133 William Street · New Bedford · Massachusetts 02740
TEL 508-979-1455 · FAX 508-979-1451

Comment: 8, 12

December 06, 2010

DEC 10 2010

Mr. Jack Terrill
New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Dear Trustee Council Members:

At the meeting of the New Bedford City Council held on November 23, 2010, the City Council adopted a Written Motion by Councillor at Large Debora Coelho, but co-sponsored by the entire Council, "that the New Bedford City Council send a letter to the New Bedford Harbor Trustee Council asking them to reconsider New Bedford's three applications for funding, including a $6 million proposal to restore about 1.5 miles of coastline along the upper harbor and to create a pedestrian walkway."

This entire City Council hopes that the New Bedford Harbor Trustee Council reconsider their decision and fund the three applications that New Bedford has put forth and by signing this letter as a united body this will show the New Bedford Harbor Trustee Council that this City Council feels strongly about this important matter.

Sincerely,

Denis Lawrence, Jr., City Council President

Debora Coelho, Councillor at Large

Brian K. Gomes, Councillor at Large

Bruce Duarte, Jr., Councillor Ward Four

Joseph P. Lopes, Councillor Ward Six

Steven Martins, Councillor Ward Two

David Alves, Councillor at Large

Linda M. Morad, Councillor Ward One

Jane L. Gonsalves, Councillor Ward Five

John T. Saunders, Councillor at Large

Kathy M. Dehner, Councillor Ward Three

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

Comment: 8

SENATOR MARK MONTIGNY
2ND BRISTOL AND PLYMOUTH DISTRICT
ROOM 109-D
TEL: (617) 722-1440
FAX: (617) 722-1068

DISTRICT OFFICE
888 PURCHASE STREET, ROOM 305
NEW BEDFORD, MA 02740
TEL: (508) 984-1474
FAX: (508) 984-1590

SENATE BONDING, CAPITAL EXPENDITURES & STATE ASSETS (CHAIRMAN)
COMMITTEES:
PUBLIC HEALTH (VICE-CHAIRMAN)
REVENUE (VICE-CHAIRMAN)
STEERING AND POLICY (VICE-CHAIRMAN)
BILLS IN THIRD READING
TRANSPORTATION
FEDERAL STIMULUS OVERSIGHT
FINANCIAL SERVICES

DEC 10 2010

December 10, 2010

New Bedford Harbor Trustee Council
c/o National Marines Fisheries Service
55 Great Republic Drive
Gloucester MA 01930
ATTN: Jack Terrill

Dear Members of the New Bedford Harbor Trustee Council:

I am writing regarding the preliminary decision of the New Bedford Harbor Trustee Council for the Round IV funding for New Bedford Harbor Restoration projects. The Trustee Council has announced its intentions to provide funding for four grant applications: the Acushnet Sawmill Ecological Restoration, the LaPalme Riverside Farm Acquisition, Restoration and Management of Tern Populations in Buzzards Bay and Round Hill Salt Marsh Restoration Project. I ask that the Trustee Council reconsider its preliminary decision and consider the projects that would have a greater impact on New Bedford Harbor.

The original intent of the $20.2 million settlement was to restore the natural resources that were severely impacted by the release of polychlorinated biphenyls (PCBs) and other toxic chemicals into New Bedford Harbor by industrial users. Since 1992, the Trustee Council has approved up to $19 million for restoration projects, with approximately 40 percent of the approved projects located outside of the area which was impacted by the contamination. If the preliminary decision stands, then only 25 percent of the settlement would have been spent on New Bedford Harbor. This is simply outrageous and unacceptable.

The three projects that have been proposed for New Bedford are located in an area directly affected by the PCP and other industrial contamination. The projects included the Acushnet River Upland Riparian Restoration, which would include a walkway along the river providing public access to this area, the Palmer Island Restoration Project, and the Regional Shellfish Restoration Project. These projects will directly benefit the Harbor and have the greatest regional effect, both environmentally and economically.

I urge the Trustee Council, in the interest of environmental equity, and the spirit in which the body was commissioned, to approve those projects that will have greatest impact on the area most affected by the contamination of New Bedford Harbor.

Thank you for your reconsideration of this matter.

Sincerely,

Mark Montigny
SENATOR

Attn: Jack Terrill
Jack.Terrill@noaa.gov
Fax: 978-281-9301

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Comment: 6

Dec 9, 2010

To the New Bedford Harbor Trustee Council:

As a public citizen from a neighboring community in Southeastern MA, I would like to inform you of my support for prioritizing funding towards the Restoration and Management of Tern Populations in Buzzards Bay. Terns have always represented the foundation for my appreciation of the natural ecology and unique habitat of Southeastern MA, throughout my childhood of beach-going and sailing competitively in Buzzards Bay.

I have sought to make a personal contribution to the conservation of these graceful creatures by pursuing a graduate degree studying their behavioral ecology. As a graduate student, I have been volunteering for the Buzzards Bay Tern Restoration Project to assist in achieving management goals, while at the same time collecting valuable data on the species. The research that I am conducting has the potential to demonstrate a capacity for "observational spatial learning" in terns, a remarkable cognitive process that has only been demonstrated in crows and jays (which are deemed extremely intelligent). In fact, terns exhibit extraordinary skills at migrating and navigating home to Buzzards Bay all the way from Argentina and Brazil! Documenting an aptitude for "observational spatial learning" will offer insight into how terns respond cooperatively to changes in their environment, and will provide vital information for their conservation. The Tern Restoration Project has also allowed us to identify annual variation in prey and foraging strategies in Common and Roseate Terns, to determine what may be limiting their survival. Keep in mind that, without terns, anglers would have no birds to lead them to fish schools!

Tern populations continue to struggle through looming threats of overfishing, global climate change, and construction of offshore windfarms. While Common Tern populations have been recovering since the early Twentieth Century, in a large part due to the Buzzards Bay Tern Restoration Project, Roseate Terns were federally listed as Endangered in the Unites States in 1987, and their populations continue to decline. It is our responsibility, as public citizens, to protect the second largest population of Common and Roseate Terns in North America. It is our duty to make amends for the injury that has occurred to populations as a result of the release of polychlorinated biphenyls (PCBs) and other hazardous substances into the New Bedford Harbor Environment. As citizens, we are stewards charged with the task of safeguarding not only our own backyard, but also the home of terns that were born in Buzzards Bay decades ago—they have nowhere else to go!

Lastly, extended funding of the Tern Restoration Project will provide New Bedford with the opportunity to join communities surrounding Buzzards Bay in hosting a federally endangered species. New Bedford could even capitalize on attracting tourist dollars towards the conservation of local wildlife, like the puffin in Maine. This would help to instill a sense of local pride and identity, and, in turn, would lead to an influx of research and conservation dollars.

Please consider placing funding priority on the Restoration and Management of Tern Populations in Buzzards Bay.

Thank you,

Holly Goyert
hollygoyert@gmail.com
44 Waterview Rd.,
Oak Bluffs, MA 02557

THE COALITION FOR
BUZZARDS BAY

114 Front Street
New Bedford, MA 02740

tel: (508)999-6363
fax: (508)984-7913

21 Luscombe Avenue
Woods Hole, MA 02543

tel: (508)540-6222
fax: (508)540-5222

www.savebuzzardsbay.org

December 10, 2010

Comment: 5, 13, 15

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Re: New Bedford Harbor Trustee Council (NBHTC) Round IV Preliminary Decision

Dear Ms. Alexander, Mr. Mantzaris, and Ms. Sperduto:

The Coalition for Buzzards Bay (CBB) is very pleased that the two applications we submitted for Round IV funding – the Acushnet Sawmill Restoration and Lapalme Farm Land Acquisition - have been identified by the NBHTC as "Preferred Projects". These projects as proposed are highly important, relevant and applicable to restoring, acquiring, protecting and making publicly accessible the equivalent of natural resources that were injured as a result of the release of hazardous substances, including PCBs, in the New Bedford Harbor Environment. We believe these projects have high technical merit, and that we have demonstrated our ability as an applicant to effectively implement these projects. Additionally we are confident that the costs of the project as proposed are realistic, reasonable and demonstrate great value in restoring accessible natural resources to New Bedford Harbor.

We also share the believe of many in our community that the NBHTC should dedicate all of the remaining $6 million available in Round IV to projects that benefit the Acushnet River/New Bedford Harbor area closest to the greatest impact from the contamination. This would be done best by funding CBB's two proposals (Acushnet Sawmill Ecological Restoration and LaPalme Riverside Farm Land Acquisition) along with the three proposals submitted by the City of New Bedford (Acushnet River Upland Riparian Restoration Project; Palmer's Island Sanctuary and Interpretive Trail; and Regional Shellfish Restoration). We believe that these projects naturally complement each other and represent the best way to direct the funding to the area, natural resources and population most affected by the contamination.

Funding of this suite of projects, in combination with efforts currently underway, will create a string of publicly accessible restored shoreline areas along the Harbor and Acushnet River for the benefit of residents and visitors of the City of New Bedford and surrounding communities. This network of natural areas will include: Palmers Island, Marsh Island, Riverside Park and an expanded, restored Acushnet Sawmill, with the latter three being connected with a new pedestrian Riverwalk. Additionally, funding of the City's Shellfish Restoration proposal will direct some remaining money to impacted open water resources of the Harbor. All of these projects together importantly enhance the ability of the people of the City and surrounding communities to access the natural resources of the Harbor in a positive way and will play an important role in developing a sense of connection and stewardship for the Harbor among people of the region.

Of course, we recognize that the budgets for these five projects as originally proposed could not all be funded with the limited dollars remaining available in Round IV. However, we have worked with the City of New Bedford over the past few weeks to identify how all of these projects and their budgets could be revised to accomplish all of them with the remaining $6 million. Details on any revisions to the City's proposal projects will be provided in their letter.

For our part, this would involve reducing the budget for the Acushnet Sawmill Ecological Restoration by $452,500 and reducing the budget of the LaPalme Riverside Farm Acquisition by $422,000. The following describes how we might do that while maintaining the most essential components of each project as proposed.

Acushnet River Ecological Restoration

Original Requested Budget:	$1,644,993
Possible Revisions:	
Reduce site preparation costs	- $200,000
Remove Upland Oak Forest Restoration component	- $130,000
Remove Seasonal Woodland Pool component	- $37,500
Reduce estimate for Construction Representative	- $30,000
Reduce Construction Contingency	- $50,000
Potential Revised Budget:	$1,197,493

The City of New Bedford has offered to partner with us on this project and provide in-kind services to accomplish the majority of site preparation work necessary including demo and removal of the bridge, foundations, concrete and bituminous surfaces. We believe that we can remove the upland forest and vernal pool components from the proposed budget without significantly compromising the benefits of the overall project. These components could be implemented with funding from an alternate source at some point in the future. Additionally we will reduce our estimates for a construction representative and construction contingency.

LaPalme Riverside Farm Land Acquisition

Original Requested Budget	$1,022,605
Possible Revision: Reduce Land Acquisition funding	- 422,605
Potential Revised Budget	$600,000

We are hopeful that if NBHTC provided $600,000 toward this project, that we could raise the additional $422,605 needed through state and local land conservation grants. This increases the complexity of this project for CBB but we are willing to assume the extra work needed to secure outside grant funds in order to achieve the vision for the Harbor as described above.

Additionally, CBB has discussed with the City the scope of work associated with their Palmer's Island Sanctuary and Interpretive Trail. We believe that this is an excellent project that deserves an important place in the overall Round IV package. CBB's experience with land conservation, habitat restoration, public access development/passive recreation management on conservation lands and environmental education make us well suited to help with this project. We are committed to partnering with the City if desired to complete this project.

We are excited to present the New Bedford Harbor Trustees Council with a viable alternative funding scenario that implements five priority projects focused directly on New Bedford Harbor and the Acushnet River. We believe that these projects naturally complement each other and represent the best way to direct the available funding to the natural resources and population most affected by the PCB contamination.

Thank you for this opportunity to provide additional comments.

Sincerely,

Mark Rasmussen
President

cc: Senator John F. Kerry
Senator Scott Brown
Congressman Barney Frank

State Senator Mark Montigny
State Representative Antonio Cabral
State Representative Robert Koczera
State Representative William Straus

New Bedford City Council
Acushnet Board of Selectmen
Fairhaven Board of Selectmen

New Bedford Harbor Trustee Council Round IV
New Bedford Harbor-Acushnet River Restoration Projects, Proposed Round IV Funding Solution
The City of New Bedford and The Coalition for Buzzards Bay

Map prepared by: Buzzards Bay National Estuary Parogram, 2870 Cranberry Highway, East Wareham, MA 02538 www.buzzardsbay.org December 6, 2010

Mass Audubon
Protecting the Nature of Massachusetts

Allens Pond Wildlife Sanctuary
1280 Horseneck Road . Westport, Massachusetts 02790
tel 508-636-2437 . fax 508-636-0272 . email allenspond@massaudubon.org

December 10, 2010

Comment: 1,6

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
Attn: Jack Terrill

Dear Mr. Terrill:

I am writing to encourage you and the New Bedford Harbor Trustees to support two important efforts to restore wildlife and habitat resources in the Greater New Bedford area.

The New Bedford Harbor settlement funds have supported Mass Wildlife's Tern Project in Buzzards Bay for several years, and without this funding, vital protection, management, monitoring, banding and restoration projects would not likely have taken place. As I'm sure you're aware, almost half the northeast population (and 97% of Massachusetts' population) of federally endangered Roseate Terns nests on three islands in Buzzards Bay. These islands and the nesting colonies require very intensive management in order to maintain the population and attempt to increase productivity. The support of the Trustees over the years has been invaluable, and thousands of terns have entered the population because of the funding provided for restoration and management work. As part of our effort to protect terns throughout the state, and as active participants in Roseate Tern Recovery Team meetings, Mass Audubon is engaged with Mass Wildlife to find funding to replace this source of support for future seasons, but this final year of funding is critical to sustaining the program while other sources are found. Please continue to support this project for the season ahead so that important habitat is not permanently lost.

Mass Audubon also supports the project proposed by the Town of Dartmouth to restore salt marsh and tidal exchange at Round Hill marsh. This is a unique and valuable project that would restore environmental functions to an increasingly threatened natural resource. By removing thousands of cubic yards of fill that was placed on the marsh in the early 1900s, planting the restored marsh surface with appropriate salt marsh plant species, and replacing a culvert that will reconnect the restored marsh to tidal exchange from Buzzards Bay, this project will revive the habitat values for a broad suite of species including macro- and micro-invertebrates on which the estuarine food chain rests. Marsh restoration is a most appropriate way to mitigate past damage from contamination in the greater New Bedford area since marshes are an important nursery habitat for fish and shellfish and provide foraging and breeding area for a variety of birds and other wildlife, all of which move between estuaries and Buzzards Bay and ultimately support cultural and economic ways of life for New Bedford's human residents.

Thank you for considering these comments.

Sincerely,

Gina Purtell

Gina Purtell, Sanctuary Director

CITY OF NEW BEDFORD
SCOTT W. LANG, MAYOR

Comment: 5, 7, 8, 9

December 8, 2010

New Bedford Harbor Trustee Council
c/o National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Re: New Bedford Harbor Trustee Council (NBHTC) Round IV Preliminary Decision
Alternative Proposal

Dear Trustees,

On behalf of the City of New Bedford, I am requesting the New Bedford Harbor Trustee Council reconsider applications submitted by the City of New Bedford. The projects submitted by the City will restore, protect, conserve, and enhance natural resources in the area where the PCB contamination and environmental damage has occurred. The projects proposed by New Bedford are the most relevant – one of the criteria that the Trustee Council considered in their evaluation. These projects will give the largest ecological and economic benefit to the greatest area or greatest number of people affected by the injury to the natural resource and enhance the public's ability to use, enjoy or benefit from the harbor environment. The projects have technical and scientific merit. The City has a staff of professionals, all of whom are highly qualified to plan and execute all components of the project. The City, with assistance from professional engineers with extensive experience in project design and construction oversight, prepared realistic budgets for the Shellfish Restoration, Riparian Restoration Riverwalk, and Palmer's Island Sanctuary projects. These projects enjoy a high level of community support, documented by support letters not only from elected officials, but community organizations and property owners. The projects will involve citizens, broaden their participation, improve stewardship and heighten community conservation.

New Bedford's shellfish restoration will enhance shellfishing resources throughout the region. Funds will be allocated to the assessment and future plantings of shellfish beds in the outer Harbor of New Bedford. This will help to restore both the commercial and recreational shellfish habitat which has been the cornerstone of New Bedford's culture and heritage.

The Acushnet River Riparian Restoration project is a proposed 25 foot wide restoration project that would stretch along the banks of the Acushnet River from Coggeshall Street to Tarkiln Hill

133 WILLIAM STREET • NEW BEDFORD, MA 02740 • TEL. (508) 979.1410 • FAX (508) 991.6189

Road (Main Street). The project would restore native coastal habitat by removing fill, rubble, and non-native plants, regarding the project area to a more natural shoreline feature, and planting native coastal plants. The restored shoreline would improve wildlife habitat in the immediate areas where damage to the natural resource occurred and be accessible to the public. It would allow the families of New Bedford to reconnect with the Acushnet River for the first time in one hundred years.

The Palmers Island Sanctuary Project is located in New Bedford Harbor and would preserve natural coastal features and resources located on the island and restore upland coastal habitat using accepted methods for invasive species control. A pedestrian interpretive trail and lookout to educate visitors about the sponsors, components and values of the project would be constructed.

The City believes, as do many who spoke at the November 23, 2010 public hearing, that all of the remaining $6 million available in Round IV should be dedicated to projects that benefit the Acushnet River/New Bedford Harbor area closest to the greatest impact from the contamination. This would be done best by funding the City's three proposals. It is not appropriate to fund governmental projects to restore tern habitat or construct a salt marsh, which may have technical merit, but are outside of the area where the damage occurred. Furthermore, these projects are proposed in areas where the population most impacted by contamination has little or no opportunity for access.

The City recognizes that the budgets for their three projects as originally proposed could not all be funded with the limited dollars remaining available in Round IV. However, the City has worked to identify how these projects and their budgets could be revised to accomplish them together with the remaining $6 million. For the City's part, this involves reducing the budgets for the Riparian Restoration and Palmer's Island Sanctuary. These costs savings will be achieved by:

- securing no cost easements from existing property owners for the Riparian Restoration project
- providing many of the engineering, permitting, legal and monitoring services through the City's Department of Public Infrastructure, which includes a staff of professional engineers experienced in design and permitting
- scaling back project elements, such as signage and benches, and seeking funding for these through other sources
- eliminating contingency line item.

Thus, the revised budget for the New Bedford projects is below:

New Bedford Harbor/Acushnet River Restoration Projects			
Project	Applicant	Original Request	Revised Request
Shellfish Restoration	City of New Bedford	$ 800,000	$ 800,000
Riparian Restoration Riverwalk	City of New Bedford	$ 6,059,608	$ 2,900,000
Palmers Island Sanctuary	City of New Bedford	$ 1,113,619	$ 500,000
		Total Round IV Revised Request	**$ 4,200,000**

The approximately $1.8 million in remaining funds should be used to enhance projects that benefit the Acushnet River/New Bedford Harbor area. This would be accomplished by funding the Coalition for Buzzards Bay's two proposals, which are contiguous to New Bedford's Acushnet River boundary.

We believe that these projects naturally complement each other and represent the best way to direct the funding to the area, natural resources and population most affected by the contamination.

Funding these projects, in combination with efforts currently underway, will create a string of publicly accessible restored shoreline areas along the Harbor and Acushnet River for the benefit of residents and visitors of the City of New Bedford and surrounding communities. All of these projects together importantly enhance the ability of the people of the City and surrounding communities to access the natural resources of the Harbor in a positive way and will play an important role in developing a sense of connection and stewardship for the Harbor among people of the region.

Sincerely,

Scott W. Lang
Mayor

Subject: FW: NBHTC decision
From: "Brophy, Thomas (SEN)" <Thomas.Brophy@masenate.gov>
Date: Fri, 10 Dec 2010 21:18:20 +0000
To: "Jack.Terrill@noaa.gov" <Jack.Terrill@noaa.gov>

Comment: 5

Hi Mr. Terrill. Our office received this e-mail from Mark Rasmussen from the Coalition for Buzzards Bay. Senator Montigny wanted me to let you know that he supports this compromise set forth in Mr. Rasmussen's letter.

Thank you

Tom Brophy
General Counsel
Senator Mark Montigny's office
State House, Room 109D
Boston, MA 02133
(617) 722-1440

From: Mark Rasmussen [mailto:Rasmussen@savebuzzardsbay.org]
Sent: Friday, December 10, 2010 3:17 PM
To: Brophy, Thomas (SEN)
Subject: RE: NBHTC decision

Tom – I hope the Senator can get on board with the attached approach. I'm excited about it. Call with any questions. Mark

Mark Rasmussen, President/Buzzards Baykeeper
THE COALITION FOR BUZZARDS BAY
Main: 114 Front Street, New Bedford, MA 02740
Cape: 21 Luscombe Avenue, Woods Hole, MA 02540
Tel. 508-999-6363 x.201

www.savebuzzardsbay.org

From: Brophy, Thomas (SEN) [mailto:Thomas.Brophy@masenate.gov]
Sent: Wednesday, December 08, 2010 3:55 PM
To: Mark Rasmussen
Subject: NBHTC decision

Hi Mark

Senator Montigny asked me to talk to you about the New Bedford Harbor Trustees Council's Phase IV preliminary awards. Can you give me a call when you have a moment. Thanks and I look forward to hearing from you.

CBB NBHTC Round IV Comments.pdf	**Content-Description:**	CBB NBHTC Round IV Comments.pdf
	Content-Type:	application/pdf
	Content-Encoding:	base64

MEMORANDUM

Comment: 6, 18, 19

ATTN: Mr. Jack Terrill
TO: New Bedford Harbor Trustee Council
FROM: Dale C. Young, Commonwealth Citizen
DATE: December 10, 2010

RE: New Bedford Harbor Natural Resource Damages
Round 4 Restoration Proposals

As a concerned member of the public, I would like to offer comments regarding the preliminary decisions by the New Bedford Harbor Trustee Council (the Council) to fund a suite of preferred restoration alternatives as outlined in its Draft "ENVIRONMENTAL ASSESSMENT, ROUND IV, NEW BEDFORD HARBOR RESTORATION, GRANT APPLICATIONS" dated October 18, 2010.

I congratulate the Council on recommending a variety of projects focused on the restoration of natural resources within the environment affected by the New Bedford Harbor Federal Superfund site (the Site). As described by the Council, that affected environment includes the lands of the Acushnet River watershed, the waters of the Acushnet River and New Bedford Harbor, and parts of Buzzards Bay. The four preferred alternatives, when implemented, will serve to enhance wildlife and habitat within such coastal and riverine areas.

My comments focus on two issues:

1) I wish to provide my unwaverable support for the Council's recommendation to fully fund the proposal for the **"Endangered Species, Restoration and Management of Tern Populations in Buzzards Bay"**. Of the preferred alternatives, this project should receive highest priority for full funding due to its direct nexus to natural resource injuries resulting from the release of hazardous substances from the Site. Such nexus is documented in the Draft EA as follows:

   "Scientific evidence developed for the litigation in this case indicated that terns were poisoned by PCBs as a result of feeding on fish within the New Bedford Harbor Environment. The Trustees argued in 1991 that terns were natural resources of New Bedford Harbor Environment and had been damaged by PCBs from New Bedford Harbor. Settlement of the case and funding for restoration was based in part on this evidence." (Section 4.3.5.2.1.; Page 41)

   The continuation of the Tern Management project is critical in achieving the recovery goals to protect and enhance Roseate and Common tern populations and their habitat within Buzzards Bay. As with many endangered species recovery plans, our commitment is essential in providing long-term funds for years of "man-hours" of intensive efforts targeted at "undoing" the negative impacts of our past legacies of environmental pollution.

2) I also wish to comment on the overwhelming public response (as reported in the media) at the Councils' hearing in November that funds be directed for proposals submitted by the City of New Bedford. As a former Trustee representative for the Commonwealth for over 12 years, I have experienced the challenges in determining restoration priorities for expenditure of Natural Resource

Damage funds for numerous cases. One primary factor must be emphasized, i.e., natural resources impacted by a Site are not necessarily limited to particular municipal boundaries and in certain cases may not even be limited to state boundaries. The projects submitted by New Bedford are worthy proposals, providing some restoration opportunities with added collateral economic benefits. However, the magnitude of benefits to the environment is not as significant in comparison to those gained by the preferred alternatives.

I suggest, therefore, the Commonwealth Trustee work closely with the City to investigate the possibility of securing other sources of State funds for the City's proposals, i.e. via other State grant programs such as the Massachusetts Environmental Trust or the PARC grants at EEA.

In conclusion, I thank you for the opportunity to provide public comment on the Council's proposals. It was my utmost honor to have been part of the Natural Resource Damages Restoration process for over twelve years on behalf of the Commonwealth. Unfortunately, government decisions on environmental programs may be dictated by the pretense of "Efficiencies and Economies of Scale" which change program personnel. Despite such changes, I remain interested in the Commonwealth's Natural Resource Damages program and its commitment to adhering to the mission of restoration.

Comment: 20

Subject: Comment: New Bedford Harbor Trustee Council, ROUND IV funding
From: newbgreen@gmail.com
Date: Fri, 10 Dec 2010 22:01:07 -0800
To: Jack.Terrill@noaa.gov

Re: Comments for New Bedford Harbor Trustee Council's ROUND IV funding

New Bedford Green/Verde asks the NB Trustees Council to require a New Bedford community education component for all winning proposals.

That includes the City of New Bedford's bid to install a riverwalk, a project that was previously to be completed by a developer as part of its bid to buy city property, the Fairhaven Mill site. This site might in fact be subject to Chapter 91 waterfront access requirements; the Mass. DEP is investigating historic maps now.

New Bedford Green/Verde sought to implement a PCB-remediating inoculated wetland sluiceways, a modality with proven effectiveness in other locales, but was discouraged by the City of New Bedford.

Certainly the Coalition for Buzzards Bay, which has long suggested it was akin to a local watershed organization, yet provided no local capacity building, should be held accountable for chronicling the value of its land acquisition bid to the residents of the city of New Bedford.

New Bedford has long been treated by surrounding communities and state agencies as a grant-dependent ward of the state worthy of no capacity building or input, let alone remediation or efforts to effect self reliance.

Does the NBHTC want to continue that tradition? If not, please require a community education component for all funded proposals.

NB Green/Verde
Carol Steinfeld
cc: Mark Truran, Anne Hayes, et al

(Note: this email was reformatted to fit on page)

Subject: New Bedford Harbor Trustee Council funding decision
From: Chuck Dade <cdade@chuckdade.com>
Date: Sat, 11 Dec 2010 10:37:30 -0500
To: Jack.Terrill@noaa.gov

Comment: 7, 21, 23, 23, 24

Mr Terrill,

This is a cleanup of what I previously sent.

I need a proof reader; I sometimes can't see what's right in front of me.

FINAL...

Greetings,

I am writing to you in reference to the decisions of spending of funds determined by the New Bedford Harbor Trustee Council.

I am a native, a veteran, a descendant of the family with the greatest number of participants of the 'greatest generation' in WWW II (http://www.chuckdade.com/10served/). I have parents, grandparents, great grandparents that have lived in all of the towns that surround it and kinship to all of South Coast. I live in New Bedford now.
To me "ALL" of the funding should be spent in New Bedford Harbor but not necessarily in New Bedford city limits; more specifically, all should be spent north of the points at Sconticut Neck's Wilbur Point and Ft Taber within the harbor and estuaries in between and on adjoining land.

I find the Mayor of New Bedford's question of transparency on your decision hypocritical when he reversed (behind closed doors) an open process committee designation of the project at Fairhaven Mills that ended up taking down a historical mill that could have housed a greater project. One that was adjacent to what could have been a different River Walk (from Riverside Park to the upcoming train station) on an area where

PCB's were only 89 ppm and, hence, more easily restorable. Instead the Mayor saved Cliftex where the PCB's are at least ten times higher and will take years to be cleaned by the EPA Superfund Project; now he wants to argue about why your organization doesn't want to fund planting new biota in such a place.

Other than riparian restoration (which wouldn't make sense until the EPA has prepared it to minimize recontamination), the type of river walk construction he seeks now should be funded by chapter 91 considerations by the land owners, the city and state.

Again I believe all of the federal funding should be spent on the harbor/estuary .

Expansion of the northern harbor projects as recommend by Buzzards Bay Coalition seem money better spent than on what ends up being faux (since it likely to fail) riparian restoration of an area that is still too contaminated to remain healthy. That effort seems to satisfy possibly suspected promises of government funded enhancement on projects benefiting developers but doesn't seem to be do able within the EPA's timetable.

Certainly, a portion of the funding proportionate to demographic and need could be kept in reserve for a later time for New Bedford and not spent until the EPA has restored the areas with in the city to a baseline to where your funding will be well spent on something likely to survive.

This should not be done in a hurry and done wrong.

If that can't happen under present government guidelines then the guidelines need to be revamped to embody the spirit of the intent of the funding and solicitation for new projects should be expressed under the new guidelines, in this way New Bedford could re apply for more doable sustainable projects later on.

Otherwise, the funding needs to placed where there is a great likely hood of survival of installed biota by **expanding** accepted proposals to spend the entire funding within approve able projects in the location mentioned

above that most benefits the greatest demographic. The Buzzards Bay Coalition projects in the north part of the estuary might best be able to manifest that result by improving resources easily available to New Bedford's demographic even though a great part of them is in Acushnet.

Spend every penny in the estuary/harbor.

Thank you for your time.

Chuck Dade