



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

MAY 22 2012

To All Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act (NEPA), an environmental review has been performed on the following action.

TITLE: Final Restoration Plan and Environmental Assessment (EA), Rose Hill Landfill Site Hazardous Substance Release; and Finding of No Significant Impact (FONSI)

LOCATION: South Kingstown, Washington County, Rhode Island

SUMMARY: This EA was prepared by NOAA as sole Trustee responsible for restoring natural (diadromous fish) resources and services injured as a result of releases of hazardous substances in areas at or impacted by release from the Rose Hill Landfill, South Kingstown, Rhode Island. The EA describes the natural resource injuries and the actions selected by NOAA to address and restore the natural injuries. These actions take the form of funding awards for restoration projects to be implemented on the Saugatucket River in Wakefield and Peace Dale, Rhode Island.

The selected projects are as follows:

1. Diadromous fish passage improvements at the Main Street dam fishway, Wakefield, RI
2. Diadromous fish passage improvements at the Palisades Mill facility dam fishway, Peace Dale, RI

**RESPONSIBLE
OFFICIAL:**

Brian T. Pawlak, Acting Director
Office of Habitat Conservation
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

The environmental review process led NOAA to conclude that this action will not have a significant effect on the human environment. Therefore, an Environmental Impact Statement will not be required and will not be prepared. A copy of the Finding of No Significant Impact (FONSI) including the supporting Final Environmental Assessment (EA) is enclosed for your information.

Although NOAA is not soliciting comments on this completed Final EA/FONSI, we will consider any comments submitted that would assist us in preparing future NEPA documents. Please submit any written comments to the responsible official named above.

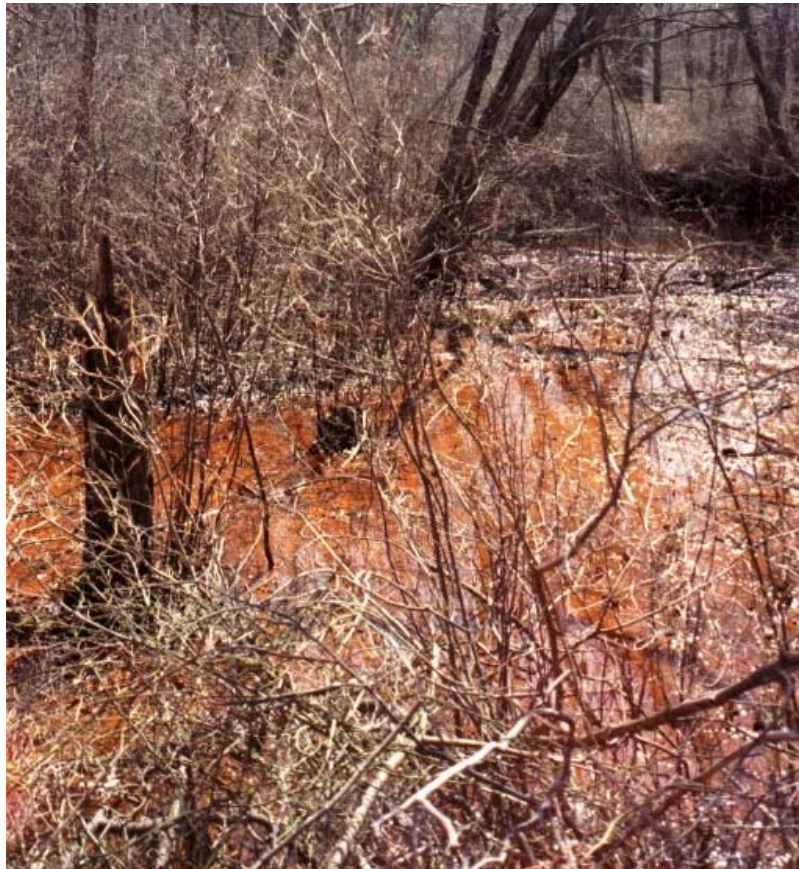
Sincerely,

Patricia Montanio
NOAA NEPA Coordinator

Enclosure



**Final Restoration Plan
and
Environmental Assessment
Rose Hill Landfill Site, Hazardous Substance Release,
South Kingstown, Washington County, Rhode Island**



May 2012

**Prepared by the:
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
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EXECUTIVE SUMMARY

This Final Restoration Plan and Environmental Assessment (Final RP/EA) has been prepared by the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce and presents the agency's restoration planning process to address natural resource injuries caused by releases of hazardous substances at or from the Rose Hill Landfill Superfund Site located in South Kingstown, Rhode Island (hereafter, "the Site"). NOAA seeks public review and comment on the preferred alternatives proposed to be implemented by the agency to address the natural resource injuries resulting from Site releases.

The Rose Hill Landfill Superfund Site is located in the Town of South Kingstown. The Town of South Kingstown owned and operated the Site from 1967 to 1983. In 1973, the Town of Narragansett entered into an agreement with the Town of South Kingstown, whereby Narragansett also used and operated the landfill. Therefore, the two towns are the Responsible Parties (RPs) that are jointly and severally liable for natural resource damages resulting from the release or threatened release of hazardous substances at or from the Site.

Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), NOAA and the Rhode Island Department of Environmental Management (RIDEM) share trusteeship authority over the natural resources affected by releases at or from the Site and are collectively referred to as the Natural Resource Trustees ("the Trustees"). See, 42 USC § 9607(f) (2).

Under CERCLA, the Trustees are authorized to act on behalf of the public to assess and recover damages for injury to, destruction of, or loss of natural resources caused by the release, or threatened release, of hazardous substances, and to hold responsible parties liable for those damages including the costs of assessing the damages (42 USC 9607). Natural resource trustees utilize funds recovered from responsible parties to, "restore, replace or acquire the equivalent," of the natural resources that were injured and ecological services that were lost." See, 42 USC § 9607(f) (1).

NOAA and RIDEM worked together to investigate and assess potential natural resource injuries attributable to releases at or from the landfill. The Trustees determined that natural resources in the Saugatucket River ecosystem were injured by the release of hazardous substances at or from the Site.

In December 2002, the U.S. Environmental Protection Agency (USEPA) and the federal and state Trustees entered into a Consent Decree with the Towns of South Kingstown and Narragansett settling claims under CERCLA related to the existence, release, or threat of release of hazardous substances at or from the Site. Under the terms of the Consent Decree, the RPs are required to perform remedial activities, pay natural resource damages, and perform or fund restoration activities to settle their liability under CERCLA. Federal and state natural resource damage claims were addressed separately in the Consent Decree.

Section IX of the Consent Decree specifically requires the RPs to provide \$117,000 to NOAA to be used for "...the implementation and monitoring of fish passage restoration projects on the

Saugatucket River” to resolve their environmental liability for the federal natural resource damage claim. Per the terms of the Consent Decree, the funds are to be used by NOAA for “...the implementation and monitoring of fish passage restoration projects on the Saugatucket River.” The State of Rhode Island independently developed and provided oversight of restoration projects that the RPs have completed to resolve their liability for the State natural resource damage claim. In this Final RP/EA, NOAA presents the restoration project alternatives that the agency identified and evaluated to address the natural resource injuries for which NOAA is the sole federal Trustee.

NOAA has identified and evaluated four compensatory restoration alternatives, including a “No Action” alternative, to restore and/or enhance diadromous fish populations to the Saugatucket River. The targeted diadromous fish species include alewife (*Alosa pseudoharengus*) and blueback herring (*A. aestivalis*), collectively known as river herring, and American eel (*Anguilla rostrata*). The alternatives considered in this Final RP/EA include: (1) a ‘No Action’ alternative; (2) modifications to the Main Street Dam and reconstruction of the associated fishway in Wakefield, RI to improve upstream and downstream diadromous fish passage; (3) modifications to the Palisades Manufacturing Company Dam and accompanying fishway in Peace Dale, RI, to improve upstream diadromous fish passage; (4) and replacement of a road culvert to improve diadromous fish passage on Factory Brook in Charlestown, RI.

NOAA is proposing the Main Street dam and Palisades dam fish passage improvements as the selected restoration alternatives. These projects, collectively provide the most significant resource benefits to the natural resources of the Saugatucket River watershed that were injured by contaminant releases from the Rose Hill Superfund Site.

Actions undertaken by NOAA to restore natural resources or services are subject to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, and the regulations guiding its implementation at 40 C.F.R. Parts 1500 through 1517. NEPA and its implementing regulations outline the responsibilities of federal agencies when preparing environmental documentation. In general, federal agencies contemplating implementation of a major federal action must produce an environmental impact statement (EIS), if the action is expected to have significant impacts on the quality of the human environment. If there is uncertainty as to whether the proposed action would likely have significant impacts, federal agencies are to prepare an Environmental Assessment (EA) to evaluate the need for an EIS. If the EA demonstrates that the proposed action will not significantly impact the quality of the human environment, the agency issues a Finding of No Significant Impact (FONSI), which satisfies the requirements of NEPA, and no EIS is required.

Pursuant to NEPA, NOAA has prepared this Final RP/EA, in which the agency presents a reasonable number of restoration alternatives that the agency identified and evaluated to address the natural resources injuries arising from the Site. NOAA considered all reasonably foreseeable potential negative or beneficial impacts associated with each of the alternatives and used the information to propose preferred restoration alternatives for implementation. NOAA does not believe that the proposed restoration actions will significantly impact the quality of the human environment.

This Final RP/EA summarizes information on the environmental setting; briefly describes the assessment process relating to injury to or loss of natural resources or ecological services; describes the purpose and need for restoration actions; identifies alternative actions; assesses their applicability and potential direct, indirect or cumulative impacts on the quality of the physical, biological and cultural environment; and presents the pathway for public participation used in the project decision-making process.

NOAA made the Draft RP/EA available to the public in November 2011, via a public notice in the area newspaper (*South County Independent*) and on the NOAA Damage Assessment, Remediation and Restoration Program (DARRP) web site (<http://www.darrp.noaa.gov>) for review and comment for a period of 30 days in accordance with the National Environmental Policy Act (NEPA). NOAA then reviewed and fully considered the comments received during the comment period. Summaries of the comments and NOAA's responses to comments are provided in Appendix I. After consideration of the comments received and the environmental assessment prepared in the Draft RP/EA, NOAA has issued a Finding of No Significant Impact (FONSI) for the selected project alternatives. NOAA expects implementation of the selected restoration projects to occur later in 2012 following the public release of this Final RP/EA.

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1.0 Introduction

1.1 Overview and History of the Site

The Rose Hill Landfill Superfund Site is an approximately 70-acre site located off Rose Hill Road in South Kingstown, Washington County, Rhode Island. The Site is bordered by Rose Hill Road to the west, the Saugatucket River to the east, and residential properties to the north and south. The Town of South Kingstown (“the Town”) leased the land as a municipal domestic and industrial waste disposal facility, which the Town operated from 1967 to 1983. In 1973, the Town of Narragansett entered into an agreement whereby Narragansett also used the landfill. Three separate areas on or near the Site received wastes, including a solid waste landfill, a bulky waste disposal area, and a sewage sludge landfill. In 1983, the facility became inactive, and the operator graded and seeded the disposal areas. Currently, the Town owns and operates a transfer station for municipal waste on a portion of the Site. Current owner-operated activities within the Site's boundary also include a hunting preserve, skeet and qualifying range, kennel and field training area for dogs, and a pet cemetery. An estimated 17,300 people obtain water from wells located within three miles of the Site. The surrounding area is both rural and residential, with forested uplands and wetlands, fields, small farms and sand/gravel mining activities nearby. Mitchell Brook, a small upper perennial stream, flows through the Site before discharging to the Saugatucket River. The Saugatucket River discharges to Pt. Judith salt pond located in Narragansett, Rhode Island. Pt. Judith Pond is one of a number of coastal salt ponds which tidally connect to Block Island Sound along the South County shoreline in southwestern Rhode Island.

1.1.1 Contaminants of Concern

In 1985, the Utilities Department of the Town of South Kingstown extended the municipal water line to residences on Rose Hill Road, where testing of residential water supply wells indicated that contaminants had migrated from the landfill into the local groundwater. The Site was proposed for listing on the National Priorities List on June 24, 1988; and on October 4, 1989, the listing became final. The contamination of nearby drinking water wells triggered further investigations of the landfill by USEPA and RIDEM, and led to the Site being included on the federal Superfund National Priority List. In 1990, USEPA initiated a Remedial Investigation (RI) to determine the nature and extent of contamination and to evaluate any risks to human health and the environment.

The results of the RI revealed a wide array of contaminants in the landfill that included volatile and semi-volatile organics, pesticides, and metals, among others. It was also determined that contamination had migrated into the groundwater, nearby surface waters, and landfill gases. Contamination posed a risk to aquatic organisms in the surface waters from exposure to these chemicals of ecological risk concern. The risk to aquatic organisms was confirmed by results from leachate toxicity testing, which indicated that the leachate is acutely toxic to aquatic organisms including finfish.

1.1.2 Responsible Parties

The Town of South Kingstown leased the land as a municipal domestic and industrial waste disposal facility, which the Town operated from 1967 to 1983. While the Site is located in South Kingstown, the Town of Narragansett entered into an agreement of joint use and operation of the landfill in 1973; therefore both towns are jointly and severally liable for natural resources damages attributable to the Site.

In 1983, the facility became inactive, and the operator graded and seeded the disposal areas. A transfer station for municipal waste, currently owned and operated by the Town of South Kingstown, is located on a portion of the Site. Three separate areas on or near the Site received waste including a solid waste landfill, a bulky waste disposal area, and a sewage sludge landfill.

NOAA and RIDEM determined that natural resources in the Saugatucket River ecosystem were injured by the release of hazardous substances from the Site. In December 2002, the EPA, the Trustees, and the Towns of South Kingstown and Narragansett – the Responsible Parties (RPs) entered into a Consent Decree, settling claims under CERCLA relating to the existence, release, or threat of release of hazardous substances at or from the Site. Under the terms of the Consent Decree, the RPs are required to perform remedial activities, pay natural resource damages, and perform or fund restoration activities to settle their liability under CERCLA.

1.2 Summary of Response Actions

The USEPA's 1999 Record of Decision (ROD) selected a remedy to directly address contaminants in the soils, air emissions, leachates, and public access of the Site, thereby indirectly addressing contaminants migrating to the nearby groundwater, sediments, and surface waters. The remedial activities for groundwater, air and leachate set forth in the 1999 ROD were to: (a) excavate and consolidate the Bulky Waste Area landfill materials at the Solid Waste Area landfill; (b) collect and effectively manage leachate and waters collected from runoff and dewatering operations during the excavation of the Bulky Waste Area; (c) construct a multi-layer clean fill cap over the extent of the Solid Waste Area landfill and consolidated Bulky Waste Area; and inspect and monitor the integrity and performance of the landfill cap over time; (d) assess, control, collect and treat landfill gas emissions and monitor landfill gas concentrations to assess any need to modify the landfill gas collection treatment system as necessary; (e) implement access restrictions and institutional controls (i.e., land title restrictions) on land use and the use of, or hydraulic alteration of, groundwater where Preliminary Remediation Goals (PRGs) and/or other health based standards are exceeded; (f) install a chain link fence and/or other physical barriers where necessary to prevent Site access, injury and/or exposure; (g) conduct long-term monitoring of surface waters, groundwater, air and leachate emergence; (h) perform operation and maintenance activities throughout the life of the remedy; and (i) conduct statutory five-year reviews, as required by the ROD. The Site's remedial design was completed in January 2005. The remedial actions began in 2005 and were completed in 2007.

The selected remedy of groundwater source control is to eliminate the flow of contaminated leachate and groundwater into the Saugatucket River and indirectly help to remediate contaminated sediments in and surface waters of the Saugatucket River.

1.3 Legal Authority

This Final RP/EA was prepared by NOAA pursuant to the agency's authority and responsibility as a natural resource trustee under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (also known as the Clean Water Act or CWA), and other applicable federal laws, including Subpart G of the National Oil and Hazardous Substances Contingency Plan (NCP), at 40 C.F.R. §§ 300.600 through 300.615, and the U.S Department of Interior's CERCLA natural resource damage assessment regulations at 43 C.F.R. Part 11 (Natural Resource Damage Assessment (NRDA) regulations), which provide guidance for the natural resources damage assessment and restoration planning process under CERCLA. Actions undertaken by NOAA to restore natural resources or services are subject to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, and the regulations guiding its implementation at 40 C.F.R. Parts 1500 through 1517.

1.4 Public Participation

NOAA has prepared this Final RP/EA for public review and comment. In this document, we present information regarding: the role and authority of natural resource trustees and the natural resources damage assessment process; the natural resource injuries and service losses attributable to the Site; the restoration alternatives that NOAA has identified and considered; NOAA's evaluation of the restoration alternatives and the potential environmental impacts on the surrounding environment that could result from implementing the restoration alternative(s); and NOAA's proposed preferred alternative for implementation, and the rationale behind its selection. NOAA sought public review of the Draft RP/EA on the restoration action that the agency proposes to implement to restore the impacted environment and compensate the public for the natural resources injuries and services losses. As such, public input is an integral and important part of the NRDA process and is consistent with all applicable state and federal laws and regulations, including the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) and its implementing regulations; and the regulations providing guidance on assessment and restoration planning under CERCLA at 43 C.F.R. Part 11.

This Final RP/EA was prepared based on comments submitted to NOAA during the public comment period. The public comment period began on November 3, 2011 by placing a public notice in a local newspaper (South County Independent) and copy of the Draft RP/EA on the NOAA Damage Assessment, Remediation and Restoration Program (DARRP) web site (<http://www.darrp.noaa.gov>) for review and comment for a period of 30 days in accordance with the National Environmental Policy Act (NEPA). NOAA reviewed and considered the comments received during the comment period. Summaries of the comments and NOAA's responses to comments are provided in Appendix I. After consideration of the comments received and the

environmental assessment prepared in the Draft RP/EA, NOAA has issued a Finding of No Significant Impact (FONSI) for the selected project alternatives. NOAA expects implementation of the selected restoration projects to occur in late 2012 or 2013, following the release of this Final RP/EA.

1.5 Administrative Record

NOAA has maintained records documenting the information considered and actions taken by the Trustee agency during this assessment and restoration planning process. These records collectively comprise NOAA's Administrative Record (AR) supporting this Final RP/EA. Public comments submitted on the Draft RP/EA, as well as a copy of the Final RP/EA, will be included in the AR for this case. The AR records are available for review by the public. Interested persons can access or view these records at the NOAA/National Marine Fisheries Service, Narragansett Laboratory, at the following address:

National Oceanic and Atmospheric Administration
Restoration Center
28 Tarzwell Drive
Narragansett, Rhode Island 02882
Attention: James Turek
Email: James.G.Turek@noaa.gov
Fax: 401-782-3201

Arrangements must be made in advance to review or obtain copies of these records by contacting the person listed above. Access to and copying of these records is subject to all applicable laws and policies including, but not limited to, laws and policies relating to copying fees and the reproduction or use of any material that is copyrighted.

2.0 Purpose and Need for Restoration

The purpose of the proposed action is to restore natural resources injured, lost, or destroyed due to releases of hazardous substances at or from the Rose Hill Landfill Superfund Site and/or arising from related response actions. Under CERCLA, designated federal and state natural resources trustees are authorized to act on behalf of the public to assess natural resources damages and provide for the restoration of the injured natural resources and related service losses.

In December 2002, the United States Environmental Protection Agency (USEPA), the RIDEM, NOAA, and the Towns of South Kingstown and Narragansett, as the Responsible Parties (RPs), entered into a Consent Decree settling claims under CERCLA relating to the existence, release, or threat of release of hazardous substances at or from the Rose Hill Landfill Site.

Under the terms of the Consent Decree, the RPs are required to perform remedial activities, pay natural resource damages, and perform or fund restoration activities to settle their liability under

CERCLA. Federal and state natural resource damage claims were addressed separately in the Consent Decree. The state independently developed and reviewed restoration projects which have been completed. The RPs provided \$117,000 to NOAA in settlement of the federal natural resource damages claim, in addition to \$5,000 to NOAA for past damage assessment costs. Per the terms of the Consent Decree, the funds are to be used by NOAA for "...the implementation and monitoring of fish passage restoration projects on the Saugatucket River."

2.1 NEPA Compliance

Actions undertaken by NOAA to restore natural resources or services are subject to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, and the regulations guiding its implementation at 40 C.F.R. Parts 1500 through 1517. NEPA and its implementing regulations outline the responsibilities of federal agencies when preparing environmental documentation. In general, federal agencies contemplating implementation of a major federal action must produce an Environmental Impact Statement (EIS) if the action is expected to have significant impacts on the quality of the human environment. When it is unlikely that, or uncertain whether, a contemplated action is likely to have significant impacts, federal agencies prepare an Environmental Assessment (EA) to evaluate the need for an EIS. If the EA demonstrates that the proposed action will not significantly impact the quality of the human environment, the agency issues a Finding of No Significant Impact (FONSI), which satisfies the requirements of NEPA, and no EIS is required. For a proposed restoration plan, if a FONSI determination is made, the Trustee(s) may then issue a Final RP/EA describing the selected restoration action(s).

In accordance with NEPA and its implementing regulations, this Final RP/EA summarizes the current environmental setting; describes the assessment of injury to or loss of natural resources or ecological services resulting from a contaminant release; describes the purpose and need for restoration actions; identifies alternative restoration actions; assesses their applicability and potential direct, indirect or cumulative impacts on the quality of the physical, biological and cultural environment; provides for public participation in the decision-making process; and provides indication of the selected projects based on comments received on the Draft RP/EA by NOAA during the public comment period. The public input on the Draft RP/EA was considered by the agency to determine whether preparation of an EIS was warranted prior to selection of the final restoration action.

3.0 The Natural Resource Damages Settlement

The natural resource damage assessment undertaken for the Rose Hill Site was directed at identifying the type and degree of injury to natural resources as a result of contaminant releases from the Site. This was done both to support development and resolution of the Trustees' natural resource damages claim, and to guide and direct the Trustees in choosing and then implementing appropriate restoration.

The injury assessment process can involve both injury evaluation and resource and service loss quantification. To evaluate potential injury to resources, Trustees review existing information,

including Site remedial investigation information and published scientific literature. Based on information from these sources and with an understanding of the ecological functions of the terrestrial and aquatic ecosystems at and near the Site, Trustees evaluate injury to natural resources. Multiple factors are considered when making this evaluation, including, but not limited to:

- Specific natural resources and ecological services of concern;
- Evidence indicating contaminant exposure, pathway and injury;
- Mechanisms by which injury occurred;
- Probable type, degree, spatial and temporal extent of the injuries; and
- Types of restoration actions that are appropriate and feasible.

For each resource category (either a group of organisms or a habitat type) that is potentially affected, Trustees identify an exposure pathway linking the injury to releases at, adjacent to, or from a Site, determine whether an injury has occurred or is likely to occur, and identify the extent and magnitude of the injury.

For the Rose Hill Landfill Site, contamination from the Site was determined to pose a threat to natural resources, including NOAA trust resources utilizing Mitchell Brook, the Saugatucket River, and Saugatucket Pond. The primary pathways of contaminant migration from the Site were determined to be groundwater discharge and surface water runoff. Iron and several trace elements were detected at elevated concentrations in surface waters and sediment during the remedial investigations. The leachate seeps located on the perimeter of both the Bulky Waste and Solid Waste Areas were considered to be sources of contamination to surface water bodies.

NOAA and RIDEM evaluated available information regarding releases and threatened releases of hazardous substances at or from the site, and potential natural resource injuries resulting from those releases. The Town of South Kingstown cooperated with NOAA and RIDEM in completing the assessment activities. The parties considered the likelihood that contamination from the Site adversely affected the water column, benthic invertebrates, and sediments of the Saugatucket River. Additionally, the parties agreed that it was likely diadromous fish, which use the affected habitat for spawning and rearing habitat, were adversely affected. It was thus agreed that improving the passage of diadromous fish to important spawning and rearing habitat in the Saugatucket River would be appropriate compensation for the injuries to this riverine system.

Based on the results of the natural resource injury determination, NOAA negotiated a \$122,000 settlement with the Towns of South Kingstown and Narragansett for natural resource damage and natural resource damage assessment costs (U.S. District Court, 2002). The settlement includes \$117,000 provided to NOAA that according to the stipulations of the Consent Decree, are to be used “for the implementation and monitoring of fish passage restoration projects on the Saugatucket River”. NOAA thus is responsible for implementing one or more passage projects that will benefit fish diadromous species such as river herring and American eel to address the injuries resulting from the Rose Hill Landfill Site.

4.0 Affected Environment

This chapter presents a brief description of the physical, biological, and cultural environment for the waterways and ecosystems adjacent to the Rose Hill Landfill Site as required by NEPA (42 U.S.C. Section 4321, et seq.). Natural resource injuries occurred within the Saugatucket River basin. Restoration activities will occur within the same area or nearby coastal watershed with similar conditions.

4.1 The Physical Environment

The Saugatucket River drains a 12-square mile watershed in the Towns of South Kingstown, Exeter, and North Kingstown, Rhode Island, and discharges to Pt. Judith Pond, a semi-enclosed estuary connected to Block Island Sound. Two primary water bodies are present on the Saugatucket River: Saugatucket Pond, approximately 35 acres in area and Indian Lake, approximately 220 acres in area. Saugatucket Pond is 2.0 river miles upstream of Pt. Judith Pond, while Indian Lake is 2.1 river miles upstream of Saugatucket Pond. A third, smaller water body, but located the furthest downstream, is formed by the Main Street Dam in the village of Wakefield, approximately 0.6 miles upstream of Pt. Judith Pond. The Saugatucket River and its water bodies and wetlands provide important ecological functions, including fish and wildlife habitat; vascular plant primary production; production export; riverbank stabilization; and sediment transport and trapping, supporting the Pt. Judith Pond and South County estuary complex ecosystem.

4.2 The Biological Environment

The Saugatucket River watershed includes riverine and lacustrine habitats for various fish and wildlife species. Wildlife such as waterfowl (black duck, common mallard), wading birds (blue heron), shorebirds (greater yellowleg), mammals (muskrat, raccoon, red fox), and herpetofauna (wood frog, garter snake) are endemic species. Resident warm-water fish such as chain pickerel, bluegill, largemouth bass, and pumpkinseed; and cool-water fish such as tessellated darter, fallfish and white sucker are commonly found in the Saugatucket River and its associated water bodies. Brown and rainbow trout are also seasonally stocked in the Saugatucket River by RIDEM's Division of Fish and Wildlife and support an active recreational fishery.

A river herring run exists in the Saugatucket River that consists of both alewife and blueback herring. Adult herring return to the Saugatucket River each spring to spawn, and juvenile herring remain in the river system until late summer to early fall, when the young fish out-migrate to downstream coastal and marine waters. RIDEM maintains only qualitative records on the run period and peak run size, and no quantitative data are available on the present or historical run size of either species. In 2009 and 2010, large numbers of river herring were present below the Main Street dam, and are likely attributed to the "jumpstart" stocking (healthy fish relayed from another nearby river system with a healthy fish population) by RIDEM of alewife released into Indian Lake, beginning in 2005. American eel (*Anguilla rostrata*) is also found in the Saugatucket River. Juvenile eels (*i.e.*, glass eels) migrate from their natal marine

spawning grounds, returning to the Saugatucket River to spend much of their juvenile lives (“yellow eels”) in the river and freshwater ponds accessible to the eels. No quantitative data exist on the numbers of American eel present in the Saugatucket River watershed, although RIDEM fishery biologists have collected occasional data on eel presence in the river, and believe that American eel have historically been common in the watershed. Their current passage effectiveness at the Main Street dam and the Palisades dam is considered to be very limited.

4.3 The Cultural and Human Environment ¹

The original town of King's Town, incorporated in 1674, included the present towns of South Kingstown, North Kingstown and Narragansett. It was in this area that the Narragansett Indians hunted, fished, raised corn and held forth against the rival Niantic Indians. The first settlement was in South Kingstown, and it was there in the Great Swamp Fight, in 1675, that colonial soldiers from Rhode Island, Massachusetts and Connecticut gave King Philip his greatest defeat. Farming was the main activity in early times. Flax was among its earliest products. By 1800, the Wakefield Manufacturing Company was in operation, as well as the Peace Dale Mill, which grew to be one of the town's largest industries. The founding of the Rhode Island College of Agriculture and Mechanic Arts in 1892, near the Village of Kingston, was an important milestone in the history of the town. Growing into the present University of Rhode Island, this institution plays a major role in both the economic and cultural life of the town. Recently, diversified small industry has replaced the town's former leading textile manufacturer. The J.P. Stevens Company, for many years operated the Peace Dale Mill, until the textile industry declined, soon after the end of World War II. A drive for additional new industrial growth is currently underway. Capitalizing on its exceptional shoreline and beach areas, the South Kingstown has also experienced significant residential expansion, and development of its summer resort and tourist facilities. South Kingstown now includes substantial residential development and commercial development within the central business districts in the Villages of Wakefield and Peace Dale.

4.4 Threatened and Endangered Species

Per the Endangered Species Act (ESA), any potential federal actions must take into account adequate protection of federally-listed species. While no federally listed species are known to be present within the study area, occasional transient bald eagle (*Haliaeetus leucocephalus*) may be found in the area during seasonal migrations, and may be observed occasionally in Rhode Island coastal areas. The shortnose sturgeon (*Acipenser brevirostrum*) is a federally-listed endangered species that may on rare occasions be found in coastal Rhode Island waters. The alewife and blueback herring, that annually utilize freshwater streams and rivers for spawning migrations, have been considered as ESA federal ‘species of concern’ throughout their range, including the Saugatucket River, and are the target species being addressed by this RP/EA. Rainbow smelt

¹ The information in this section is from www.riedc.com

(*Osmerus mordax*), an anadromous species that is locally found in New England coastal waters, including nearshore Rhode Island waters, is also designated as a 'species of concern'. The 'species of concern' status does not carry any procedural or substantive protections under the ESA, although this designation has been assigned since NMFS has some concerns regarding status and threats to the species, but for which insufficient information is available to indicate a need to list the species under the ESA.

In response to a petition received on August 5, 2011, NMFS announced through Federal Register notice in November 2011, a positive 90-day finding for a petition to list alewife and blueback herring as 'threatened' under the ESA and to designate critical habitat concurrent with a listing. The NMFS notice indicated that the petition presents substantial scientific information indicating the petitioned action may be warranted. The positive 90-day finding requires NMFS to commence a status review for both alewife and blueback herring. Within 12 months of the receipt of the petition to list these species under the ESA, NMFS will make a finding as to whether listing of alewife and/or blueback herring as endangered or threatened is warranted, as required by section 4(b) (30(B) of the ESA. For further information on ESA status of alewife, blueback herring, rainbow smelt, or other species, please refer to:

[www.nmfs/noaa.gov/pr/species/fish](http://www.nmfs.noaa.gov/pr/species/fish).

4.5 Essential Fish Habitat

The Magnuson-Stevens Act (including 1996 amendments) strengthened the ability of the National Marine Fisheries Service (NMFS) and the Fishery Management Councils, to protect and conserve the habitat of marine, estuarine, and anadromous finfish, mollusks, and crustaceans. This habitat is termed "essential fish habitat" and is broadly defined by NMFS to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The Act requires the Councils to describe and identify the essential habitat for the managed species, minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. The Act also establishes measures to protect EFH. The NMFS must coordinate with other federal agencies to conserve and enhance EFH, and federal agencies must consult with NMFS on all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH. Additionally, NMFS must provide recommendations to federal and state agencies on such activities to help conserve EFH. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency.

According to the NMFS Essential Habitat web site (<http://www.nero.noaa.gov/hcd/>) query and NMFS consultation, the Saugatucket River watershed is not utilized as EFH by any federally-managed species. A summary of the 34 finfish and shellfish species identified by NMFS under designation of EFH habitat for the Rhode Island/Narragansett Bay area can be found at the following web address: www.nero.noaa.gov/hcd/ri1.html.

5.0 The Restoration Planning Process

The objective of the restoration planning process is to identify restoration alternatives to restore, rehabilitate, replace, or acquire natural resources and their services equivalent to natural resources injured or lost as a result of the release of hazardous substances. The restoration planning process may involve two components: primary restoration and compensatory restoration.

Primary restoration involves actions designed to assist or accelerate the return of natural resources and services to their pre-injury or baseline levels. In contrast, compensatory restoration actions are actions taken to compensate for interim losses of natural resources and services, pending the return of the natural resources and their services to baseline conditions or levels.

For the Rose Hill Landfill injury, remedial actions undertaken at the Site are expected to protect natural resources in the vicinity of the Site from further or future harm and allow the affected natural resources to return to pre-injury or baseline conditions within a reasonable period of time.

As appropriate on-site restoration and mitigation was implemented as part of the remedial actions at the Site, it was unnecessary for the Trustees to plan for and implement primary restoration. Accordingly, the Final RP/EA addresses only compensatory restoration.

5.1 Restoration Strategy

Because contaminants from the Rose Hill Landfill potentially impacted diadromous fish and their spawning habitat in the Saugatucket River, and because the terms of the Consent Judgment specify that NOAA will undertake fish passage restoration in the Saugatucket River, NOAA sought restoration alternatives that would benefit these species and their habitat within the watershed. The fish spawning and rearing habitat injury (*i.e.*, injury to the surface waters and sediments of the Saugatucket River) began at the time of Site releases and continued until remedial actions at the Site were completed in 2007. Compensatory restoration will serve to make the public whole for resources lost between the time the injury began and completion of the remedial actions at the Site. Restoring the same or ecologically similar resources within the same watershed or in close proximity as the injured communities can provide compensation for the interim loss of ecological services.

To identify and evaluate restoration alternatives, NOAA conducted a site identification and selection process using the best available information from local, state and federal sources. NOAA identified and evaluated four restoration alternatives in its restoration planning process for the Rose Hill Landfill Site including a 'No Action' alternative required under NEPA.

With the No Action alternative, NOAA would take no direct action to restore the natural resource injuries or compensate for lost services pending environmental recovery, and so would rely only on natural recovery and resource management conditions to occur. The No Action Alternative is the primary restoration alternative to which all other alternatives are compared.

Through the RP/EA process, NOAA must decide if the cost and effort of implementing compensatory restoration is more beneficial to the injured resource than simply allowing the injured area to recover on its own.

5.2 Evaluation Criteria

Consistent with the NRDA regulations, NOAA used the following criteria to evaluate the restoration project alternatives and identify the project preferred for implementation under this plan:

The extent to which each alternative is expected to meet the Trustees' restoration goals and objectives: The primary goal of any compensatory restoration project is to provide a level and quality of resources and services comparable to those lost due to the assessed injuries. In meeting the goal, Trustees consider the potential relative productivity of the habitat to be restored and whether the habitat is being created or enhanced. Proximity to the injury and future management of the restoration site are also criteria considered since management issues can influence the extent to which a restoration action meets its goals.

The cost to carry out the alternative: The benefit of a project relative to its cost is a primary factor in evaluating restoration alternatives. Factors that can affect and increase the costs of implementing the restoration alternatives may include project timing, access to the restoration site (e.g., with heavy equipment or for public use), acquisition of state or federal regulatory permits, acquisition of land necessary to complete a project, measures necessary to provide for long-term protection of the restoration site, and the potential liability from project construction.

The likelihood of success of each project alternative: Trustees consider technical factors that represent risk to successful project construction, project function, or long-term viability and sustainability of the restored habitat. Alternatives that are susceptible to future degradation or loss through contaminant releases or erosion are considered as less or non viable. Trustees also consider whether difficulties in project implementation are likely, and whether any long-term maintenance of the project features will be or will likely be necessary and/or feasible.

The extent to which each alternative will avoid collateral injury to natural resources as a result of implementing the alternative: Restoration actions should not result in additional losses of natural resources and should minimize the potential to affect surrounding resources during implementation. Projects with no or minimal potential to adversely impact surrounding resources are generally viewed more favorably. Compatibility of the project with the surrounding environment and land use and potential effects on endangered species are also considered.

The extent to which each alternative benefits more than one natural resource or service: This criterion addresses the inter-relationships among natural resources, and between natural resources and the services they provide. Projects that provide benefits to more than one resource and/or yield more beneficial services overall, are viewed more favorably. For example, although

recreational benefits are not an explicit objective in this Final RP/EA, the potential for a restoration project to enhance recreational use of an area (e.g., fish viewing or wildlife photography) is considered favorably.

The effect of each alternative on public health and safety: Projects that would negatively affect public health or safety are not appropriate for restoration implementation.

5.3 Tiers of Screening

The NRDA regulations give Trustees discretion to prioritize the above criteria and to use additional criteria as appropriate. In developing this Final RP/EA, NOAA evaluated alternatives against each criterion to ensure the restoration action(s) will compensate the public for the injuries attributable to the Site releases. The overall goal for restoring the injured natural resources and services is to restore diadromous fish habitats in the Saugatucket River watershed. A secondary, less preferred goal is to restore diadromous fish habitats in other coastal watersheds of the South County salt pond estuary complex, Rhode Island, provided only if no appropriate and feasible projects are available in the Saugatucket River watershed.

5.4 Range of Reasonable Alternatives

Two principal sources of information are available to identify potential projects benefitting diadromous fishes in the Saugatucket River watershed as well as other South County watersheds. Rhode Island has an anadromous fish restoration plan that is available for identifying specific passage restoration sites and actions need to address one or more anadromous species (Erkan, 2002). Additionally, the local knowledge of RIDEM fishery biologists, NOAA restoration ecologists, and other persons involved with fish passage restoration contributed important for preparing this RP/EA.

Based on the information available as indicated above, NOAA has identified two preferred restoration alternatives on the Saugatucket River, one non-preferred alternative located in a smaller, nearby South County watershed (Factory Brook) west of the Saugatucket River, and a no-action alternative that would not result in implementation of any fish passage projects, but is provided for a comparison of potential impacts. Other potential restoration projects or actions within the Saugatucket River and other nearby South County watersheds were investigated but found to be infeasible due to property ownership challenges, the action has been completed since the settlement by others or through other programs, or the project or action would not provide in-kind restoration of the natural resources injured. The following is a description of the set of alternatives that NOAA has evaluated for implementation using the Rose Hill Landfill Site settlement funds.

Two existing dams equipped with fishways constructed in the early 1970s are in place downstream of the impacted/Site area that, if modified, could significantly improve upstream and downstream fish passage efficiency for alewife, blueback herring, and American eel. At both of these dams, RIDEM fishery biologists annually document the presence of river herring and

American eel at the base of the dams, and low numbers of river herring passing through the fishways. Based on fishery and hydraulic assessments at these two dam barriers, there is evidence that the existing structural fishways are not functioning properly to efficiently pass river herring or American eel.

The first dam encountered on the Saugatucket River traveling upstream from the head-of-tide is the Main Street dam in Wakefield, RI (Alternative 1, Section 6.2) which is owned by the Town of South Kingstown. The existing Denil fishway associated with this dam is owned and maintained by the RIDEM, and RIDEM holds an easement with the Town to access and maintain the fishway. The Town supports the fish passage improvements and will allow access for the fishway modifications to occur. Methods to improve fish passage at the Main Street dam are presented and discussed in detail in Section 6.2.

Approximately 1 river-mile upstream is the privately-owned Palisades Manufacturing Company Dam (Alternative 2, Section 6.3). The owner of this private property is in support of fish passage and the improvements at this facility. Recently, a modification of the concrete flume structure was completed through the Restore America's Estuaries Program which is based on a collaborative partnership between NOAA and Save the Bay, a non-governmental organization, to address restoration opportunities associated with Narragansett Bay and other Rhode Island coastal waters. The modification involved the placement of prefabricated metal angle irons bolted into the flume to increase survivorship of out-migrating juvenile river herring passing over the spillway flume. This completed action has proven effective in deflecting flows to the central plunge pool below the spillway. Conversely, upstream passage by river herring at the Palisades facility remains substantially inefficient, and modifications to the current fishway would significantly improve diadromous fish passage at this dam. The proposed project will also allow eel passage to occur at this dam barrier by installation of an eelway. Methods to improve fish passage at the Palisades Dam are presented and discussed in detail in Section 6.3. NOAA has determined that performing both of the proposed restoration projects (Alternatives 1 and 2) would best improve migration of diadromous fish in the Saugatucket River watershed. Implementing the two projects together would maximize the potential for both upstream and downstream diadromous fish passage. NOAA does not anticipate any adverse impacts to the restored runs as a result of these remedial actions. Total costs to improve fish passage at both the Main Street dam and the Palisades dam are estimated at \$440,000.

Under the Consent Decree, the RPs provided \$117,000 to NOAA for the compensatory restoration, including the initial project and follow-up monitoring that was originally used to develop the consent settlement agreement. Additional funding needed to complete the fishway and dam modifications for the two preferred projects have been secured through federal and state grant programs. Should construction costs for these projects exceed the estimated costs and available funds, supplemental monies are expected to be secured from federal, state or other organizational grant funding opportunities such as NOAA's Community-Based Restoration Program, the United States Fish and Wildlife Service's National Fish Passage Program, the state of Rhode Island's Coastal and Estuarine Habitat Restoration Trust Fund administered by Rhode Island's Coastal Resources Management Council, and/or other federal grant or private foundation funds. The following sections discuss and evaluate the restoration alternatives considered in greater detail.

6.0 Evaluation of Reasonable Range of Restoration Alternatives

6.1 Non-Preferred Alternative: No Action

NEPA requires NOAA and other federal agencies to evaluate a No Action alternative, and it is also an option that can be selected under CERCLA. With the No Action alternative, NOAA would take no direct action to restore the natural resource injuries or compensate for lost services pending environmental recovery, and so would rely only on natural recovery and resource management conditions to occur. While natural recovery would occur over varying time scales for the various injured riverine resources, the interim losses incurred would not be compensated for under the No Action Alternative. This alternative would cost the least because no direct action would be taken, but such savings must be weighed against the potential for recovering the natural resource loss.

Section IX of the Consent Judgment specifically required the RPs to fund “...the implementation and monitoring of fish passage restoration projects on the Saugatucket River,” (in order to resolve their environmental liability for the federal natural resource damage claim. The RPs provided the \$117,000 to NOAA per the terms of the Consent Judgment. NOAA’s responsibility to utilize natural resource damages settlement funds to restore, replace or acquire the equivalent of injured natural resources clearly set forth in CERCLA.

Restoration of diadromous fish populations in the Saugatucket River cannot be substantially achieved through the No Action Alternative. While the Trustees have determined that natural recovery was appropriate as the primary restoration, the No Action Alternative is rejected for compensatory restoration since substantial interim losses occurred during the period of recovery of the Site contamination. Technically-feasible and cost-effective alternatives exist to compensate for these losses, and have been addressed through feasible and preferred project Alternatives 1 and 2 as discussed in Sections 6.2 and 6.3.

6.2 Preferred Restoration Alternative 1: Improve Fish Passage, Main Street Dam, Wakefield, RI

This alternative involves a project to improve diadromous fish passage in the Saugatucket River to address river herring injuries resulting from the Site releases.

6.2.1 Restoration Site Location and Action Description

The Main Street dam (location relative to the Rose Hill Landfill Site in Figure 1), owned by the Town of South Kingstown, is situated on the Saugatucket River immediately north of the Main Street bridge in the village of Wakefield, Rhode Island. The ~100-foot long, 6-foot high, 19th century stone structure includes a large number of boulders at the toe of the dam and a Denil fishway on the left bank (as if facing downstream, looking at the dam) that was constructed in the early 1970s for river herring passage (Figure 2). The dam forms a relatively narrow but lengthy, shallow impoundment that is used for recreational boating and fishing, and is also appreciated by the local community for various waterfront activities and celebrations. The pond

also provides spawning habitat benefits for alewife. Because of its village setting and substantial recreational use and aesthetic value of the impoundment, dam removal is not a feasible option for this potential fish passage site.

The existing RIDEM-owned Denil fishway on the river left bank is operational but has been determined to need improvements for increasing fish passage efficiency. Passage problems associated with this fishway include: a poorly located entranceway and excessive flows through the fishway during the normal operational period that limit upstream passage by adult river herring; flows across the dam spillway that cause mortality of out-migrating juvenile herring that are carried over the dam spillway and land on, or are trapped in, the boulder apron at the toe of the dam; and the lack of effective upriver passage by American eel.

To improve diadromous fish passage at the Main Street dam, the following work activities are being proposed: (1) remove and reconstruct the lower portion (~50-foot length) of the fishway to relocate the fishway entranceway closer to the base of the dam; (2) install several additional baffles in the upper portion of the existing Denil fishway to reduce excessive flows through the fishway; (3) modify the fishway exitway to lessen trash accumulation and facilitate debris removal; (4) install a flow notch in the low-level outlet, drain gate structure and make minor modifications to the downstream boulder layout and plunge pool to improve out-migration by juvenile river herring; and (5) install an eel pass with the entranceway of the eelway located on the quiescent upriver backside of the Denil fishway entranceway.

Site survey has been completed and the project engineering design is now being completed. Engineering analysis will be used to prepare a final plan for the redesign of the fishway. Regulatory permits are expected to be secured by early summer 2012. This preferred alternative seeks to partially cover the costs of the fishway reconstruction which are estimated at \$350,000. Supplemental construction funds (\$110,000) have been secured through the Rhode Island Coastal and Estuarine Habitat Restoration Trust Fund (RICEHTF), and remaining funds are anticipated through another federal passage restoration grant. It is anticipated that the construction would occur in late summer or fall of 2012. The project, if constructed, is expected to increase the annual run size of river herring in the lower Saugatucket River to low to mid-level 10,000s of returning adult herring, based on the expected available spawning and rearing habitat.



Figure 1. Location of the Main Street dam and fishway, situated 5 km (3 mi) south of the Rose Hill Landfill Site; and the Palisades dam and fishway situated 3.5 km (2 mi) south of the Rose Hill Landfill Site. The Main Street dam and fishway is located 1 km (0.6 mi) north of Pt. Judith Salt Pond and just above the head-of-tide.



Figure 2. Main Street dam and existing fishway, 2011, Wakefield, RI

6.3 Preferred Restoration Alternative 2: Improve Fish Passage, Palisades Manufacturing Company Dam, Peace Dale, RI

This alternative involves a project to improve diadromous fish passage in the Saugatucket River to address river herring injuries resulting from the Site releases.

6.3.1 Restoration Site Location and Action Description

An existing Denil fishway is located on the Saugatucket River within a private commercial building property (“Palisades” commercial building) approximately 1 mile upstream of the Main Street dam (Figure 1). The Palisades site includes a dam, flume, and the Denil fishway constructed in the 1970s for river herring passage that rises approximately 13 feet and includes turn/resting pools and a series of wooden baffles (Figure 3). Normal river flows pass through both the flume and the fishway. The ~5-foot wide concrete and stone flume and fishway carry flows to a diversion of the Saugatucket River that passes under the Palisades building. The flows through the flume and Denil fishway carry most of the normal Saugatucket River flow.

Fish passage engineers have determined that passage deficiencies exist at the Palisades fishway including excessive flows and velocities through the normal operational period of the fishway;

the need for effective eel passage; and possible modification of the plunge pool at the base of the flume plunge for out-migrating fish.

To improve diadromous fish passage at the Palisades facility, the following work activities are proposed: (1) extending the central concrete wall separating the flume and fishway flows to modify the fishway channel by reducing excessive fishway flows; (2) install several baffles in the extended fishway created by the wall extension; (3) install eel pass; and (4) possibly modify the flume plunge pool to lessen potential mortality of out-migrating juvenile river herring.

The engineering plan design is now near completion, and regulatory permitting for modification of the fishway and/or flume and/or installation of an eelway if expected to be completed by late spring/early summer 2012. The projected costs for construction of the Palisades dam flume and fishway improvements and eel pass are \$90,000, with \$50,000 secured through the RICEHRTF. Additional funds are expected to be secured through other federal and/or state grants. It is anticipated that project construction would occur in summer of 2012. Project construction in combination with the Main Street fishway, is expected to increase the annual run of river herring in the Saugatucket River to mid to upper-level 10,000s of returning adult herring, based on the expected available spawning and rearing habitat.



Figure 3. Palisades dam and fishway, Peace Dale, RI



Figure 4. Palisades flume (left), fishway (right), and proposed work site of the central wall extension, looking from upstream of the structures, 2011, Saugatucket River, Peace Dale, RI

6.4 Non-Preferred Restoration Alternative 3: Teal Drive Culvert Replacement, South Kingstown, RI

This alternative involves a project to improve diadromous fish passage in a watershed other than the Saugatucket River. Thus, this is a non-preferred alternative due to the out-of-watershed location of the project, but if implemented, the project would contribute to improving diadromous fish populations in Block Island Sound, and indirectly addresses NOAA trust resource injuries resulting from the Site releases.

6.4.1 Restoration Site Location and Action Description

Factory Brook is a perennial stream that discharges to Green Hill Pond, a coastal salt pond, located approximately 9.5 miles southwest of the Rose Hill Site (Figure 5). Factory Brook flows from Factory Pond, a 35-acre waterbody that serves as a public water supply source to the Town of South Kingstown. From Factory Pond, the brook extends for 1.2 miles before discharging to Green Hill Pond. Immediately upstream of Green Hill Pond, Factory Brook is crossed by Teal Drive, a local, town-owned, 12-foot wide gravel road that provides access to a small residential community. The Teal Drive crossing consists of two 24-inch diameter corrugated metal pipes, each with distinct invert elevations both upstream and downstream of the road crossing. Downstream of the road crossing, the invert of the left side culvert is five inches higher than the

invert of the right side culvert (Refer to Figure 6). Conversely, on the upstream side of the road crossing, the invert elevations of the two culverts are reversed with the lower set culvert being the left side culvert. Thus, during low flow periods, most of the stream flows pass through the left side culvert and would discharge with the perched culvert condition on the downstream side of the road.

The Teal Drive culverts act as a diadromous fish passage impediment during low flow periods when alewife and American eel may be attempting to pass upstream to spawning and rearing habitat. To address potential fish passage concerns, the culverts would be replaced with a single concrete box or open bottom concrete arch culvert to allow for unimpeded fish passage through a broad range of stream flows. Work would involve removal of the existing corrugated metal culverts, installation of the new concrete culvert, and restoration of the local access road.

This alternative would require up-front field survey and mapping, engineering design and permitting in addition to the implementation of the project. Costs of the up-front assessment, design and permitting services are estimated at \$60,000. The cost of the culvert replacement and construction oversight services is estimated at \$150,000. Thus, the Rose Hill settlement funds could be used to only partially fund the project. Additional funds from other sources, similar to those identified for the Saugatucket River alternatives, would need to be secured to complete all phases of the project. Optimally, the up-front design and permitting and project implementation could occur in 2012, if adequate funds were secured to supplement the Rose Hill funds, if used for this project. The project, if constructed, would be expected to increase the annual run of river herring in Factory Brook to low to mid-level 10,000s of returning adult herring, based on the expected available upstream spawning and rearing habitat.

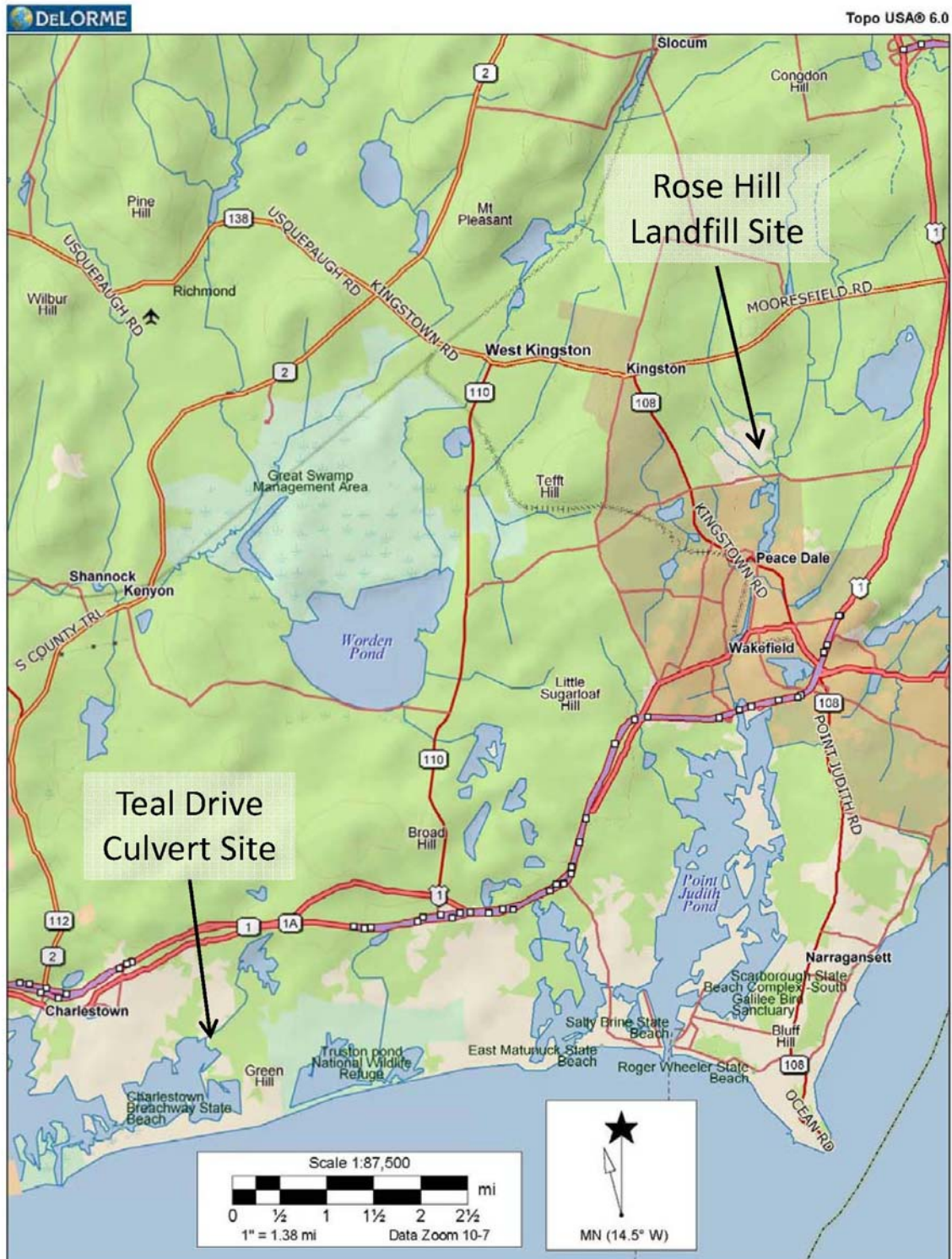


Figure 5. Location of Factory Brook and Teal Drive culverts relative to the Rose Hill Landfill Site, South Kingstown, RI.



Figure 6. Teal Drive culverts, Factory Brook, South Kingstown, RI, 2011. The culvert perched on the right is higher than the culvert on the left and both culverts provide poor fish passage with varying stream flows.

6.5 Environmental Consequences

NOAA is proposing the implementation of Alternative 1 (Main Street dam and fishway improvements) and Alternative 2 (Palisades dam and fishway improvements). The proposed restoration projects are very similar in scope, size, setting within an existing man-made feature, and watershed and geographic location. Since the anticipated environmental consequences of these two projects would be similar, the evaluation of anticipated impacts associated with implementation of each of these projects is individually described for both projects in the following analysis.

As part of this RP/EA document, federal agencies preparing an EA must consider the direct effects of all components of a proposed action as well as indirect and cumulative effects. The following are explanations of each impact type and concise responses for each of these potential environmental consequences if one or more of the project and work activities are implemented.

Direct Effects: According to the CEQ NEPA Regulations, direct effects are caused by the action and occur at the same time and place as the action (40 C.F.R. 1508.8(a)). Either fish passage improvement project will have negligible direct impact on the environment.

For the Palisades dam and fishway improvements, all work would occur within an existing concrete flume through which the river flows. For construction flows through the flume would be diverted to another existing channel around the Palisades Manufacturing Company facility. Thus, no direct impacts to wetlands or other water resources would result from this project.

For the Main Street dam and fishway improvements, minor changes to the river channel bed in the vicinity of the fishway would occur. Approximately 1,500 square feet of riverbed and bank would be affected by the placement of the new section of the concrete fishway. A portion of this minor impact would be offset by the removal of the existing lower fishway with restoration of this floodplain area. No loss of floodway or 100-year floodplain would result from this project, and no federally-regulated vegetated wetlands would be affected by the project construction.

Indirect Effects: According to the CEQ NEPA Regulations, indirect effects are caused by the action but “occur later in time or are farther removed in distance but are still reasonably foreseeable”. Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate (40 C.F.R. 1508.8(b)). No significant indirect effects from the projects are anticipated. Water quality improvements may result to Saugatucket Pond if increasing seasonal planktonic grazing by juvenile herring occurs following passage restoration. Other benefits from the project may include increased eco-tourism with greater numbers of persons visiting the Main Street fishway site to observe and enjoy the annual herring run. Local marine recreational fishing may also benefit from the increased fishing runs with increased forage fish preyed on by recreational gamefish (e.g., striped bass, bluefish, summer flounder).

Cumulative Effects: According to the CEQ NEPA Regulations, cumulative effects are those effects that result from incremental impacts of a proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of which agency or person undertakes such actions. NOAA considered cumulative effects of the implementation of one or both of the preferred alternatives and concludes that negligible impacts, including adverse cumulative effects, would result from project implementation.

In addition to the above impact evaluations, NOAA also evaluated the potential for the proposed restoration action to impact the natural environment, the built environment, and public health and safety. The following are summaries of the potential environmental and public health and safety issues considered for the proposed projects.

Water Quantity and Quality: During the construction period, concrete structural removal and placement and earth and boulder moving activities may cause short-term, minor turbidity to river flow in the immediate vicinity of the Main Street Dam, although the proposed work would be optimally completed during the low-flow period (July 1-September 30) and procedural actions during construction will minimize any potential turbidity effects, including practices that may be needed beyond the low-flow period. Dewatering activities would be employed, and any effluents released by work site dewatering practices would be minimized using sediment and erosion control best management practices (e.g., sediment bags or haybale trap). After construction is completed, the sites are expected to be stabilized through vegetative seeding and/or plantings (native, non-invasive plants) where disturbed lands and final graded soils are

placed around the rebuilt Main Street fishway, and therefore, negligible release of sediments to the river is expected.

Additionally, the proposed fishway modification work would require minor, temporary diversion of flows from the fishway(s) and portions of the dam structure(s). The use of large sandbags or other water diversion practices would be employed to minimize flows through the construction work area. This may result in localized river habitat areas that receive less flow, thereby potentially resulting in minor, short-term changes in water quantity and/or quality. Mobile biota would be expected to move from the construction area. The proposed construction work at each site is expected to take no longer than six weeks, and thus, once the projects are completed, the river flow and channel habitat are expected to return normal conditions.

Water Resources: During the construction phase of this project, minor short-term and localized impacts will occur. As a result of earth-moving activities, there will be localized increases in turbidity and sedimentation near the project area. These conditions may affect fish and stream macro-invertebrates in the immediate downstream area. Fish and mobile invertebrates are less likely to be affected, since these animals would most likely move from the disturbance area, and repopulate an area following project completion and site restoration. Increased noise levels (e.g., jack-hammering) due to the operation of earth-moving equipment may also cause fish to leave the area until construction activities (the source of the noise) cease.

Air Quality: Minor temporary impacts would result from the proposed construction activities. Exhaust emissions from earth-moving equipment contain air pollutants, but these emissions would only occur during the short-term construction phase of the project, the amounts would be small, and should be quickly dissipated by prevailing winds. Removal of concrete materials may also generate localized, short-term dust releases, but would occur only during a brief period (1-2 days) when a portion of the Main Street dam fishway is removed. There would be no long-term or cumulative negative impacts to air quality associated with these restoration projects and associated work activities.

Noise: Noise associated with earth-moving equipment represents a short-term impact during the construction phase. The construction noise may temporarily disturb wildlife in the immediate vicinity of the site, or cause movement of wildlife away from the site to other ecologically suitable areas (e.g., waterfowl and muskrat using the upstream pond). Similarly, persons enjoying outdoor recreational activities may avoid this area due to noise during construction, but such disruptions would be limited to the construction phase (~6-week period or less). No long-term or cumulative effects would occur as a result of construction noise.

Geology: None of the components of the proposed restoration actions includes activities with the potential to directly or indirectly affect, positively or negatively, the geology of the area. Proposed work at the Main Street dam may affect a limited area of boulders and gravel at the toe of the dam that were previously placed in this area for channel bed stability below the dam. The Main Street fishway reconstruction would also result in a small excavation area to construct the new section of the fishway, although this minor disturbance is expected to be offset for the restoration of the area where the existing lower fishway section will be removed.

Recreation: The noise and construction work activities resulting from earth-moving during project construction are expected to discourage and decrease recreational activities in the immediate vicinity of the site (e.g., canoeing on the pond; stroll along the riverwalk in the vicinity of the Main Street dam fishway). Any such effects will be limited to the period of construction and should be minor. Over the longer term, the proposed restoration action will increase the quality, productivity and quantity of fish passage in this area. Annual springtime herring runs are an attractive draw to residents and visitors of the area, and the improvement in site conditions will enhance opportunities for, and quality of, a variety of recreational uses.

Traffic: Minor changes in traffic flow or patterns will occur or increase at the Main Street site during the period of construction. The area and constituents most affected by the traffic. Because of the commercial use of this area, increased traffic associated from the restoration efforts will likely go un-noticed. Local traffic police is expected to assist in the project during construction to minimize adverse traffic flows in the Main Street and Palisades areas.

Aesthetic Impacts: The proposed restoration project sites are existing dam and fishway structures situated at dams that were constructed more than 50 years ago, but which have been substantially modified more recently. The changes to the dams will result in minor visual aesthetics at each of the sites. Greater view is afforded to the public at the Main Street dam site, with minor changes in the layout of the fishway downstream of the dam. These changes will be visible to the public from the Main Street bridge, although the rebuilt fishway will largely be installed near the ground surface and will not cause a hindrance to the viewscape of the dam and fishway.

Historic Impacts: Since the dams are greater than 50 years in age, they are potential historic features to the Villages of Wakefield and Peace Dale. The proposed work has been reviewed by staff from the Rhode Island Historic Preservation and Heritage Commission (RIHPHC) in accordance with Section 106 of the National Historic Preservation Act. In May 2012, the RIHPHC indicated that no adverse effects are expected with the proposed project. While not expected, any potential adverse effects to historic features would be minimized or mitigated by seeking input from the RIHPHC. Mitigation measures, if needed, will be described in a Memorandum of Agreement (MOA) between NOAA and the RIHPHC to minimize or offset any potential adverse effects.

Precedential Effects of Implementing the Project: Fish passage restoration projects are regularly implemented along the Atlantic East Coast to address fish passage barriers present in many of the region's watersheds, and have been used as a means of compensating the public for other natural resource damage claims addressed in New England. The proposed project does not in and of itself represent or create a precedent for future settings of a project type that would significantly affect the quality of the human environment.

Cumulative Impacts: The proposed projects are not expected to have a significant cumulative effect on the human environment since the projects alone, or in combination with other fish passage projects in the vicinity, would not change the pattern of hydrologic discharge, boat traffic, economic activity or land-use in the Saugatucket watershed. Project effects will be cumulative in the sense that the re-established and enhanced or restored upstream and

downstream fish passage/s at the site(s) will provide important beneficial ecological services in the future. The actions proposed are intended to make the public and the environment whole, for resources injuries caused by releases of hazardous substances into the Saugatucket River watershed from the Site. The proposed restoration actions would contribute to a comprehensive plan for the restoration of diadromous fish species in Rhode Island and Southern New England coastal waters. By contributing to this comprehensive restoration strategy, these restoration projects would help to increase the populations of river herring and American eel in this region. Such results would help to increase a fishery forage base and contribute to recreational and commercial fisheries in Southern New England.

7.0 Laws and Regulations

Anadromous Fish Conservation Act – The Anadromous Fish Conservation Act (16 USC 757a *et seq.*) provides authority to conserve and enhance anadromous fishery resources. The preferred alternative(s) will directly conserve and enhance anadromous fishery resources.

Archeological Resources and Historical Preservation – Numerous acts afford protection to antiquities, abandoned shipwrecks, archeological resources, historic buildings and historic sites. These include the Abandoned Shipwreck Act of 1987 (43 USC 2102 *et seq.*), the Archeological Resources Protection Act of 1979 (16 USC 470, *et seq.*), the Historic Sites Act of 1935 (16 USC 461-467), the Historical and Archeological Data Preservation Act (16 USC 469-469c), and the National Historic Preservation Act (NHPA) of 1966 as amended (16 USC 470-470t, 110). Any proposed action that may potentially affect any property with historic, architectural, archeological, or cultural value that is listed on or eligible for listing on the National Register of Historic Places (NRHP) must comply with the procedures for consultation and comment issued by the Advisory Council on Historic Preservation, usually through consultation with the state historic preservation officer.

NOAA will coordinate with the Rhode Island Historical Preservation and Heritage Commission (RI HPHC) to identify any properties that may be affected by the preferred restoration alternative (s) that are listed or eligible for listing on the NRHP (e.g., Main Street Dam or Palisades Manufacturing Company). Should either property be listed or eligible for the NRHP, NOAA will coordinate with the RI HPHC, Town of South Kingstown, the Palisades Manufacturing Company, and potential Consulting Parties, as defined by the NHPA, to avoid, minimize, or mitigate any potential impacts to cultural resources or features at the Main Street and Palisades dam sites, in compliance with Section 106 of the National Historic Preservation Act, as amended.

Clean Air Act – The Clean Air Act (42 USC 7401 *et seq.*) directs USEPA to set limits on air emissions to ensure basic protection of health and the environment. Any construction activities that will be required to implement the selected alternative(s) will be done with conventional construction equipment in compliance with all local ordinances and any applicable state air regulations. Any release of short-term emissions from construction equipment is expected to be of very short-term, localized, and limited in magnitude relative to the surrounding urbanized

settings in which the proposed restoration sites are located. No significant air impacts are expected with any of the projects considered in the RP/EA.

Clean Water Act – The Clean Water Act (33 USC 1251, *et seq.*) is the principal law governing pollution control and water quality of the nation's waterways. The USACE administers the program. All construction activity to implement the preferred alternative (s) will be done in compliance with Section 404 of the law, which authorizes permits for the disposal of dredged or fill material into navigable waters, if necessary. The preferred project alternatives are each expected to result in less than 5,000 square feet of disturbance, and therefore are expected to qualify for a Category I authorization under the USACE Programmatic General Permit (PGP) for Rhode Island. Should a Category II resource agency-screening be required, all criteria under the USACE screening requirements will be addressed and any mitigating conditions will be met.

Coastal Zone Management Act – The goal of the federal Coastal Zone Management Act (CZMA) (16 USC 1451, *et seq.*, 15 CFR Part 923) is to preserve, protect, develop and, where possible, restore and enhance the nation's coastal resources. The federal government provides grants to states with federally approved coastal management programs. The State of Rhode Island has a federally approved program. Section 1456 of the CZMA requires any federal action inside or outside of the coastal zone that affects any land or water use or natural resources of the coastal zone to be consistent, to the maximum extent practicable, with the enforceable policies of approved state management programs. It states that no federal license or permit may be granted without giving the State the opportunity to concur that the project is consistent with the State's coastal policies. The regulations outline the consistency procedures.

Regulatory authorization for the two preferred restoration projects will be needed from the Rhode Island Coastal Resources Management Council (CRMC). A CRMC approval (a minor category "Assent") will be required and obtained for the proposed projects; and general concurrence from the State of Rhode Island will be secured that the preferred restoration alternative(s) are consistent, to the maximum extent practicable, with the enforceable policies of the State's coastal program.

Endangered Species Act – The federal Endangered Species Act (16 USC 1531, *et seq.*, 50 CFR Parts 17, 222, 224) directs all federal agencies to conserve endangered and threatened species and their habitats and encourages such agencies to utilize their authority to further these purposes. Under the Act, both the National Marine Fisheries Service (NMFS) and USFWS publish lists of endangered and threatened species. Section 7 of the Act requires that federal agencies consult with these two agencies to minimize the effects of federal actions on endangered and threatened species.

Except for occasional transient individuals, no federally listed or proposed endangered or threatened species are known to exist in the restoration project areas. In addition, no habitat in the project impact areas is currently designated or proposed as "critical habitat" in accordance with provisions of the Endangered Species Act (87 Stat. 884, as amended; 16 USC 1531 *et seq.*). Therefore, no Biological Assessment or further Section 7 consultation under the Endangered Species Act is required. Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, this determination will be re-evaluated.

Estuary Protection Act – The Estuary Protection Act (16 USC 1221-1226) highlights the values of estuaries and the need to conserve natural resources. It authorizes the Secretary of the Interior, in cooperation with other federal agencies and the states, to study and inventory estuaries of the US, to determine whether such areas should be acquired by the Federal Government for protection, to assess impacts of commercial and industrial developments on estuaries, to enter into cost-sharing agreements with states and subdivisions for permanent management of estuarine areas in their possession, and to encourage state and local governments to consider the importance of estuaries in their planning activities related to federal natural resource grants. The preferred alternative (s) are not expected to have any adverse affects on any estuary and is expected to result in long-term or permanent beneficial impact to the estuarine resources by enhancing diadromous fish populations in the Pt. Judith salt pond and nearby coastal waters.

Fish and Wildlife Conservation Act – The Fish and Wildlife Conservation Act of 1980 (16 USC 2901 and 50 CFR 83) provides for the consideration of impacts on wetlands, protected habitats and fisheries. The restoration project will enhance fish passage and survivorship, thereby benefiting fishery resources including river herring, American eel and other species that use these species as prey items.

Fish and Wildlife Coordination Act – The Fish and Wildlife Coordination Act (16 USC 661, *et seq.*) states that wildlife conservation shall receive equal consideration with other features of water-resource development. The Act requires federal permitting and licensing agencies to consult with NMFS, USFWS, and state wildlife agencies before permitting any activity that in any way modifies any body of water to minimize the adverse impacts of such actions on fish and wildlife resources and habitat.

NOAA has worked cooperatively with the USFWS and RIDEM Division of Fish and Wildlife to evaluate various restoration projects and in identifying the preferred alternatives. The preferred alternatives are not expected to have any long-term adverse affects on fish and wildlife resources or their habitats, and are expected to result in long-term or permanent beneficial impacts to fish and wildlife resources by enhancing diadromous fish populations in the Saugatucket River, Pt. Judith Salt Pond, and other nearby coastal waters. Additional coordination with the NMFS will be completed prior to any federal permitting or licensing activities to ensure all regulatory issues have been addressed and resolved.

Magnuson-Stevens Fishery Conservation and Management Act – The Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801, *et seq.*) as amended and reauthorized by the Sustainable Fisheries Act (Public Law 104-297), 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 (FMPs) by regional Fishery Management Councils, federal agencies are obligated to consult with the Secretary of the U.S. Department 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.

EFH descriptions provided by the New England Fishery Management Council do not include detailed descriptions of riverine or riparian systems and their distribution within each of the management areas. Potential impacts to managed species would be limited to species within estuarine habitats and along stream channels such as marsh edges, SAV, and pools and riffles. The preferred restoration alternative (s) is not expected to have any long-term adverse affects on EFH of managed species, and is expected to result in long-term or permanent beneficial impacts to EFH by enhancing diadromous fish populations including river herring and American eel that serve as forage items for managed species such as summer flounder and haddock. Additional coordination with the NMFS regulatory/advisory staff will be completed as part of any federal permitting activities.

Marine Mammal Protection Act - The Marine Mammal Protection Act (16 USC 1361, *et seq.*) establishes a moratorium on the taking and importation of marine mammals and marine mammal products, with exceptions for scientific research, allowable incidental taking, subsistence activities by Alaskan natives, and hardship. The Act provides authority to manage and protect marine mammals, including maintenance of the ecosystem. The preferred restoration alternatives would be implemented in a riverine environment with no likelihood of interaction with marine mammals in the area of the proposed restoration. Marine mammals would indirectly benefit from the projects since river herring are forage items for seals and other marine mammals using Rhode Island coastal waters and open ocean habitats.

Migratory Bird Treaty Act –The Migratory Bird Treaty Act (16 USC 715, *et seq.*) provides for the protection of migratory birds. The Act does not specifically protect the habitat of these birds but may be used to consider time-of-year restrictions for contaminant remedial or restoration activities on sites where it is likely migratory birds may be nesting and/or to stipulate maintenance schedules that would avoid the nesting seasons of migratory birds. The proposed restoration sites are located within relatively urbanized sites where migratory bird nesting does not occur.

National Environmental Policy Act – Congress enacted the National Environmental Policy Act (NEPA; 42 USC 4321 *et seq.*) in 1969 to establish a national policy for the protection of the environment. NEPA applies to federal agency actions that affect the human environment. Federal agencies are obligated to comply with NEPA regulations adopted by the Council on Environmental Quality (CEQ). NEPA requires that an Environmental Assessment (EA) be prepared in order to determine whether the proposed restoration actions will have a significant effect on the quality of the human environment. If an impact is considered significant, then an Environmental Impact Statement (EIS) will be prepared. If the impact is considered to not be significant, then a Finding of No Significant Impact (FONSI) must be issued.

In compliance with NEPA and its regulations, NOAA has integrated this Restoration Plan (RP) and Environmental Assessment (EA) to summarize current environmental conditions, describe the purpose and need for a restoration action, identify alternative restoration activities, assess their applicability and environmental consequences, and summarize opportunities for public participation on the decision-making process. This RP/EA process includes release of the Draft RP/EA for public review and comment. Comments received during the public comment period have been fully considered in developing this Final RP/EA and selected restoration project(s).

Rivers and Harbors Act – The Rivers and Harbors Act (RHA; 33 USC 401, *et seq.*) regulates development and use of the nation's navigable waterways. Section 10 of the Act prohibits unauthorized obstruction or alteration of navigable waters and vests the USACE with authority to regulate discharges of fill and other materials into such waters. Restoration actions that require Section 404 Clean Water Act permits are likely also to require permits under Section 10 of the RHA. However, a single permit usually serves for both. NOAA expects compliance with the RHA through the same mechanism. The restoration alternatives addressed in the RP/EA are expected to be authorized through a USACE nationwide permit.

Executive Order 11514 Protection and Enhancement of Environmental Quality, as amended by Executive Order 11911 Relating to Protection and Enhancement of Environmental Quality – Executive Orders 11514 and 11911 require that federal agencies monitor, evaluate and control their activities to protect and enhance the quality of the Nation's environment to sustain and enrich human life; inform the public about these activities; share data gathered on existing or potential environmental problems or control methods; and cooperate with other governmental agencies. The preferred alternatives(s) fully address the intent of Executive Order 11514.

Executive Order 11988 Floodplain Management – Executive Order 11988 is a flood-hazard policy requiring federal agencies to take action to reduce the risks of flood losses; to restore and preserve the natural and beneficial values served by floodplains; and to minimize flood impacts on human safety, health, and welfare. Floodplain impacts have been considered prior to the selection of the identified restoration activities, and their implementation is not expected to have any adverse impacts to floodplains.

Executive Order 11990 Protection of Wetlands – Executive Order 11990 (40 CFR 6392 (a) and Appendix A) requires federal agencies to avoid the adverse impacts associated with the destruction or loss of wetlands, to avoid new construction in wetlands if alternatives exist, and to develop mitigation measures if adverse impacts are unavoidable. Implementation of the preferred alternative(s) will not result in the loss or alteration of wetlands, and no new construction within a wetland is associated with the preferred alternatives. Any impacts to wetlands during construction activities will be minimized using best construction practices; long-term habitat enhancements are associated with project implementation as the restoration of diadromous fish populations is expected to provide water quality benefits to the surface waters of the Saugatucket River.

Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 12948 Amendment to Executive Order No. 12898 – Executive Orders 12898 and 12948 require each federal agency to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority and low-income populations. NOAA has concluded that no low income or ethnic minority communities would be adversely affected by implementing any of the proposed restoration activities.

Executive Order 12962 Recreational Fisheries – Executive Order 12962 requires that federal agencies, to the extent permitted by law and where practicable, and in cooperation with states

and tribes, improve the quantity, function, sustainable productivity, and distribution of the Nation's aquatic resources for increased recreational fishing opportunities. The preferred restoration activities will enhance diadromous fish populations, and would contribute to improving recreational fisheries.

8.0 Literature Cited

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9.0 Persons and Agencies Consulted

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Wenley Ferguson – Restoration Coordinator, Save The Bay, Providence, RI

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Gary Guarriello – Former owner, Palisades Manufacturing Company and Hazard building facility, Peace Dale, RI

Paul Guglielmino – Dam Safety Coordinator, Rhode Island Department of Environmental Management, Providence, RI

Alex Haro – Research Ecologist, S. O. Conte Anadromous Fish Research Laboratory, U. S. Geological Survey, Biological Resources Discipline, Turners Falls, MA

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John Richard – District Conservationist, USDA-Natural Resources Conservation Service, Warwick, RI

Jon Schock – Director of Public Services, Public Services Department, Town of South Kingstown, Wakefield RI

Bryan Sojkowski – Hydraulic Engineer, U.S. Fish and Wildlife Service, Hadley, MA

Catherine Sparks – Chief, Division of Forest Environment, Division of Fish and Wildlife, Rhode Island Department of Environmental Management, Providence, RI

Eric Thornberg – Owner, Palisades Mill facility, Peace Dale, RI

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APPENDIX I
**NOAA Responses to Public Comment on the Draft Restoration Plan and Environmental
Assessment**

The National Oceanic and Atmospheric Administration (NOAA) placed a legal public notice in a local newspaper (*South County Independent*) in November 2011, as well as a posting the Draft Rose Hill Landfill Restoration Plan (RP) and Environmental Assessment (EA) to the NOAA Damage Assessment, Remediation and Restoration Program (DARRP) web site (<http://www.darrp.noaa.gov>), indicating the availability of the Draft RP and EA for review and comment. A hardcopy of the Draft RP/EA was also placed in the South Kingstown Public Library in Peace Dale. The notice and document availability allowed the public to review and comment on the Draft RP/EA for a 30-day comment period. NOAA received two letters during the public comment period. The following summarizes the issues raised and the NOAA responses to the comments in preparing and releasing the Final RP/EA.

Comment Letter 1: A Town of South Kingstown resident, whose property borders the Saugatucket River along the opposite side of the river from the Rose Hill Landfill, submitted a letter supporting the fish passage projects but also raises a number of issues relative to the Saugatucket River. The commenter indicates support for the anadromous fish passage and the projects identified in the draft plan, as “a substantial benefit to the community and the environment, with better fish runs in the Saugatucket River being a good recompense for loss caused by the landfill”.

Response: NOAA appreciates these thoughtful comments, and acknowledges the commenter’s support for the proposed fish passage improvements targeting diadromous fish species.

The commenter also presented and inquired about four other issues which NOAA has summarized, as follows:

- (1) Status of native brook trout (*Salvelinus fontinalis*) in the Saugatucket River watershed and the potential for restoration of the population in the river as a management goal.

Response: While no historic documentation exists to suggest that the Saugatucket River supported sea-run (“salter”) brook trout, it is highly probable that a genetically-distinct, sea-run brook trout population existed on the lower reach of the river. Sea-run brook trout were historically locally common along the much of the New England and Mid-Atlantic coast including Rhode Island streams and rivers. Unfortunately, most of these sea-run brook trout populations were largely extirpated during the 19th and early 20th centuries due to overharvesting, water pollution, and habitat loss. The damming of the Saugatucket River, modifications to the Pt. Judith Pond estuary, and extensive land use changes in the Saugatucket watershed have largely eliminated habitat potential for sea-run brook trout.

Non-migratory native brook trout also inhabited the Saugatucket River, and small remnant numbers likely remain where cold groundwater discharges exist in the upper reaches of the river. Like the sea-run brook trout, the native brook trout have been severely reduced by habitat loss and/or degradation, reduced groundwater base flows attributed to land clearing and watershed development, and overfishing. Further, remnant native brook trout likely also compete with non-native brown trout and other native or non-native species (e.g., chain pickerel, largemouth bass) which are present year-round or seasonally stocked in the Saugatucket River. Consequently, re-establishment of a sustainable native brook trout population poses a substantial challenge that

would require restoring high quality stream and riparian habitats, increasing cold groundwater discharge and base flows, and RIDEM regulations for managing a limited harvest or catch-and-release fishery to protect a sustainable population. While restoring brook trout populations could be considered an alternative for the Rose Hill Landfill RP, the settlement and Consent Decree were based on restoration of diadromous fish populations which are NOAA trust resources. Per the terms of the Consent Decree, NOAA is responsible for using the funds for implementing and monitoring of fish passage restoration projects on the Saugatucket River. NOAA believes that the preferred restoration alternatives identified in this Final Restoration Plan are the most appropriate actions for addressing our responsibilities under the Consent Decree.

- (2) On-going iron leaching has apparently been observed by the resident and his colleague, which he suggests may be a result of groundwater discharge along and to the stream.

Response: Regarding potential on-going releases of iron leachate to the Saugatucket River, NOAA recommends that the commenter contact state and federal agencies that regulate contamination releases. The Rhode Island Department of Environmental Management's (RIDEM's) Office of Waste Management provides technical oversight for the investigation and remediation of releases of hazardous waste or hazardous material to the environment; to ensure that those investigations and remedial activities are conducted in a consistent manner that adequately protects human health and the environment; and to enforce regulations regarding the proper disposal of abandoned hazardous waste. RIDEM's Remediation Regulations, most recently updated in November 2011, can be found at the following web link:
<http://www.dem.ri.gov/pubs/regs/regs/waste/remreg11.pdf>.

The commenter may also want to contact the U.S. Environmental Protection Agency (USEPA) about reporting potential on-going iron leaching to the river. The USEPA Region 1, Office of Site Remediation & Restoration is responsible for addressing contamination issues in Rhode Island. Mr. David Newton has been and is currently designated as the USEPA Site Manager for the Rose Hill Landfill Site. His contact information is:

USEPA Region 1
5 Post Office Square - OSRR-07-1
Boston, MA 02109
617-918-1243
Newton.Dave@epa.gov

The USEPA holds the Administrative Record for the Rose Hill Regional Landfill, South Kingstown, Rhode Island and Record of Decision (ROD) and Addendum. The Administrative Record was compiled in December 1999 and subsequently released on CD-ROM in July 2011. The USEPA Administrative Record contains site-specific documents received after the release of the Proposed Plan and a list of guidance documents that were relied upon in formulating the selected remedy for this operable unit. Reference Documents may be reviewed at:

EPA New England OSRR Records and Information Center
5 Post Office Square
Suite 100 (LIB01 – 2)
Boston, MA 02109 - 3912
(by appointment only)
(617) 918-1440 (phone)
(617) 918-0440 (fax)
<http://www.epa.gov/region01/superfund/resource/records.html>

South Kingstown Public Library
1057 Kingstown Road
Peace Dale, RI 02879
(401) 789 – 1555 (phone)
(401) 782 – 6370 (fax)
<http://www.skpl.org/>

- (3) Potential remedial or restoration practices that could address iron leaching apparently present along the stream in the vicinity of the Rose Hill Landfill.

Response: As noted in the response to Item 2 above, NOAA advises the commenter to contact the RIDEM Office of Waste Management and/or the USEPA Office of Site Remediation & Restoration to report and/or seek technical input on potential measures for addressing apparent iron leaching along the Saugatucket River or its tributaries.

- (4) Potential sediment releases and animal and septic waste problems in the watershed that could benefit from stream management and protection practices, and whether the Rose Hill Landfill Restoration Plan and funds could address potential water quality problems and measures to correct water quality impairments in the watershed.

Response: While NOAA recognizes that water quality contributes to diadromous fish spawning and rearing habitat in the Saugatucket River, NOAA believes that the preferred restoration alternatives identified in this Final Restoration Plan are the most appropriate actions for addressing the agency's responsibilities under the Consent Decree. The RIDEM Office of Water Resources (OWR) is responsible for collecting and assessing water quality data and information to support surface water quality assessments in watersheds. Assessment information is used by OWR to develop Integrated Lists, including the Section 303(d) Impaired Waters List, associated with the Integrated Water Quality Monitoring and Assessment Report (Integrated Report). According to the OWR, the Integrated Report describes the extent to which waters of the State are attaining water quality standards pursuant to Section 305(b), and identifies waters that are impaired and need TMDLs (total maximum daily loads) as required under Section 303(d) of the Clean Water Act (CWA).

The RIDEM OWR's latest State of Rhode Island 303(d) List of Impaired Waters, published in July 2011, is found at the following web link: <http://www.dem.ri.gov/pubs/303d/303d10.pdf>. According to the 2011 303(d) List of Impaired Waters, the Saugatucket River reach and its tributaries (including Mitchell Brook) from the Rose Hill Landfill property to the dam at Main

Street in Wakefield is not supporting the fish and wildlife habitat use designation based on iron contamination affecting benthic macro-invertebrate and results of bio-assessments (Refer to page 11 in the appendix list). According to the list, the TMDL for the Saugatucket River was approved July 2003 and the TMDL schedule for implementation is proposed for 2016. NOAA recommends that the commenter contact OWR staff to further discuss the status of the TMDL for the Saugatucket River and what measures may be taken to address sediment, nutrient, fecal coliform and other water quality impacts in the Saugatucket River watershed.

Comment Letter 2: The Rhode Island Department of Environmental Management's (RIDEM) Division of Fish and Wildlife provided documentation, reaffirming their operation and management responsibilities for both fishways which are considered as preferred project alternatives. RIDEM supports the proposed projects as restoration alternatives that will provide high priority diadromous fish passage improvements in the state of Rhode Island.

Response: NOAA recognizes and appreciates RIDEM's support for and continued operation and maintenance of these two fishway improvement projects which are expected to provide substantial improvement to the passage efficiency of these fishways, and to help restore and increase the diadromous fish populations in the Saugatucket River watershed.

FINDING OF NO SIGNIFICANT IMPACT
Final Restoration Plan and Environmental Assessment
Rose Hill Landfill Site, Hazardous Substance Release, South Kingstown,
Washington County, Rhode Island

The National Oceanic and Atmospheric Administration (NOAA) Administrative Order (NAO) 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1. Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

No. The proposed action consists of ecological restoration projects, designed to address natural resources and ecological services injured, lost or destroyed due to releases of hazardous substances in the Saugatucket River in South Kingstown, Rhode Island. The action will involve structural fishway improvement projects intended to benefit populations of river herring (alewife/*Alosa pseudoharengus* and blueback herring/*A. aestivalis*) and American eel (*Anguilla rostrata*) using the Saugatucket River as spawning and/or rearing habitats. The Saugatucket River discharges to coastal waters including Pt. Judith Salt Pond and Block Island Sound where the fish species targeted for restoration by the action spend a portion of their lives. These proposed restoration projects will not adversely affect ocean, coastal or essential fish habitats but will improve passage conditions by the targeted species to access and provide riverine habitats which are essential to restoring and sustaining populations of river herring and American eel. The proposed actions will provide protection against future impacts or correct human impacts that have occurred in the past. Any potential negative impacts to riverine habitat in constructing the fishway improvements would be minimal and of short-term duration. Saugatucket River diadromous fish spawning and rearing habitats will provide favorable conditions supporting and increasing sustainable populations in the Saugatucket River watershed.

2. Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships)?

The proposed fishway improvement projects will help to increase populations of river herring and American eel using the Saugatucket River, thereby increasing predator-prey functions in the river and nearby coastal waters. Increasing populations of river herring and American eel are expected to serve as forage items to estuarine and marine predator fishes such as striped bass, bluefish and summer flounder, as well as forage species for other predators such as wading and diving birds and marine mammals. The availability of sustained populations of river herring and eel will be a beneficial ecological impact to riverine and coastal waters. The fish passage

improvement projects are not expected to adversely affect biodiversity, as the fish species targeted for restoration are native species endemic to the Saugatucket River, and remnant fish runs have continued to persist with the existing low-passage efficiency structural fishways and watershed conditions. Juvenile river herring (seasonal from June - November) and eel (multiple years) that inhabit riverine habitat of the Saugatucket River are not expected to displace or substantially impact populations of other fish or other aquatic species.

3. Can the proposed action reasonably be expected to significantly affect public health or safety?

Public health will not be affected by the proposed projects. Short-term (i.e., less than 3 months) construction work will cause intermittent periods of localized noise and/or dust releases, but best management practices for construction will be employed and maintained to minimize potential effects on human health. Construction fencing, signage, and other safety measures will also be employed throughout construction to minimize potential effects on human safety including project construction workers and the public.

4. Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

The proposed action will have no significant impact on endangered or threatened species or their critical habitats, as defined by the Endangered Species Act of 1973. No endangered or threatened species are known to be present in the subject geographic area. Bald eagle, a federally protected species, is a transient, migratory bird that occasionally passes through this geographical area during seasonal migrations. The project is expected to provide dietary benefits to birds which forage on river herring, eel and other fishes. River herring are now being considered by NOAA for federal listing as threatened, but have not been designated at this time. The proposed actions are expected to provide benefits to river herring and American eel by improving passage efficiency at each of the two sites, and thus helping to increase population run size of river herring and American eel in the Saugatucket River. Increased numbers of river herring in coastal waters are expected to provide forage food benefits to marine mammals. Increased populations of river herring and eel are not expected to adversely affect other non-target species.

5. Are significant social or economic impacts interrelated with natural or physical environmental effects?

No. There will be no significant negative social or economic impacts. These fish passage restoration projects are designed to benefit the injured natural resources and are expected to have social and economic benefits through increased public recreational and educational opportunities, and by contributing trophic-level transfer in both riverine and marine ecosystems. The trophic-level transfer is expected to benefit marine recreational and commercial fisheries with increased populations of river herring and eel providing forage items to gamefish such as striped bass, bluefish, and summer flounder.

6. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?

No. The proposed actions and their expected effects on the quality of the human environment will not be controversial. The proposed work will improve upon diadromous fish passage at two dams, and the proposed fishway improvements are expected to enhance local eco-tourism and provide benefits to marine recreational and commercial fisheries in the region. The proposed work is supported by the Rhode Island Department of Environmental Management, Town of South Kingstown and owner of the Palisades Mill facility. In general, the restoration of diadromous fish runs on the Saugatucket River is highly supported by the public. Two comments received during the public comment period supported the preferred restoration actions identified.

7. Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

The proposed projects will have no significant impacts to unique characteristics of the geographical area, including historic or other cultural resources since the proposed work activities will involve modification of existing concrete fishway structures. Minor impacts to wetlands or other "waters of the U.S." will be affected by the structure modifications, and the work will require regulatory review and/or approvals from the U.S. Army Corps of Engineers (anticipated to be a Category 2 screening under the Programmatic General permit) and State of Rhode Island through the Division of Freshwater Wetlands. The fishery resource benefits are expected to offset any minor river and wetland impacts that would result from the project construction.

8. Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The proposed project and effects on the human environment will not involve uncertainty or unknown risks. The structural fishway improvements would require straightforward, temporary construction operations employing best management practices for construction and human safety. The results of the fishway improvements are expected to increase native, sustainable diadromous fish populations in the Saugatucket River and nearby coastal waters, and are resources important to the health of the coastal ecosystem and local and regional recreational and commercial fisheries.

9. Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?

The proposed action will not result in significant cumulative impacts. The proposed minor disturbances to river channel bed and bank and wetlands are limited in spatial area, and do not contribute to a cumulative loss of wetlands in the watershed. The improvements to diadromous fish passage is expected to increase the populations of river herring and eel that will beneficially contribute to health of the coastal ecosystem and local and regional recreational and commercial fisheries.

10. Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

The proposed action will affect two dams that are located within a Historic District, although the proposed modifications to the existing concrete structural fishways and dam modifications are not expected to be a significant impact to historic resources. NOAA will coordinate with the Rhode Island Historic Commission to identify and address any potential historic resource impacts. A mitigative measure for the proposed action may include public educational signage on the history of the fish runs and the dam structure at the subject sites.

11. Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

The proposed action is specifically proposed for improving existing structural fishways that pass native diadromous fishes including alewife (*Alosa pseudoharengus*) blueback herring (*A. aestivalis*), and American eel (*Anguilla rostrata*). For construction completion, a grass seed mix is expected to be used for stabilizing minor grading and exposed soil areas. A seed mix with commonly used plant species for this region will be applied for soil stabilization. The fishway improvements are not expected to introduce or result in the spread of non-indigenous species.

12. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

The proposed project is not expected to establish a precedent for future actions that would generate significant effects. The proposed work is a modification of existing fishway structures. Installation of these structures occurred in the 1970s, and this fishery management practice has been and continues to be routinely used by NOAA and other organizations on coastal rivers to provide efficient passage around dams and other barriers to diadromous fishes for access to upstream spawning and rearing habitats.

13. Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

The proposed action will not result in a violation of Federal, state or local laws or requirements imposed for environmental protection. All requisite regulatory approvals will be secured from the U.S. Army Corps of Engineers, Rhode Island Department of Environmental Management, and the Town of South Kingstown before construction activities can occur.

14. Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

No cumulative adverse effects are expected to either the target species or non-target species. The proposed restoration projects involve modifying existing fishway structures, originally built on

dams in the 1970s, to improve upon diadromous fish passage at these sites on the Saugatucket River. The structural fishway improvements are expected to increase populations of river herring and American eel in the Saugatucket River and contribute to the health of diadromous fish populations in coastal waters. Non-target species such as predator fish, bird, and mammal species are expected to benefit from the population increases in the target species serving as forage items. River herring and eel are not expected to displace the ecological niche of any non-target species, nor cumulatively affect non-target species through trophic-level changes.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Restoration Plan/Environmental Assessment prepared for the Rose Hill Landfill Site, it is hereby determined that the proposed diadromous fish passage improvements will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.



Brian T. Pawlak, Acting Director
NMFS, Office of Habitat Conservation

5/15/12
Date