NEW BEDFORD HARBOR TRUSTEE COUNCIL
RESTORATION PLAN
ENVIRONMENTAL IMPACT STATEMENT

RECORD OF DECISION

The New Bedford Harbor Trustee Council (Council) developed a plan to restore natural resources injured by releases of hazardous materials, including polychlorinated biphenyls (PCB) to New Bedford Harbor, Massachusetts. The Council, composed of the U.S. Departments of Commerce and Interior as well as the Commonwealth of Massachusetts, has worked with the affected communities, state and local governments, local commercial interests, academic institutions, and others to identify, develop and select restoration priorities and actions. As a result of this cooperative process, the Council has proposed a series of actions to restore a wide range of natural resources and uses injured by PCBs in the New Bedford Harbor area.

New Bedford Harbor is a small, urbanized estuary and important commercial port on western Buzzards Bay, in Southeastern Massachusetts. From the late 1940s until 1977, manufacturers of electronic components discharged industrial wastes containing PCBs into New Bedford Harbor and nearby coastal environments, resulting in widespread, severe contamination of the sediments, water column, and biota of the Harbor estuary and parts of Buzzards Bay. Cleanup (dredging) of the contaminated sediments is underway, led by the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers, and is expected to take about ten additional years.

Cleanup of the contaminated sediments will reduce levels of PCBs in New Bedford Harbor and Buzzards Bay. However, natural resources have been lost or degraded by years of PCB exposure. Without restoration, recovery of the Harbor ecosystem from the effects of the contamination may take decades or longer. The purpose of the proposed action; therefore, is to restore, replace or acquire the equivalent of natural resources injured by PCB releases in New Bedford Harbor. Specifically, the proposed restoration actions are intended to: (1) restore natural resources injured by PCB releases; (2) restore the habitats of living resources and the ecological services that they provide; and (3) restore human uses of natural resources, such as fisheries and public access. Together, these actions are expected to accelerate ecological recovery, enhance environmental quality, promote economic recovery, and improve the quality of life in the New Bedford Harbor area.

The geographic scope of the Council's actions is the "New Bedford Harbor Environment," defined as the area encompassed by the Acushnet River watershed, south through the Acushnet River Estuary and New Bedford Inner and Outer Harbors, out to the Area III fishing closure line, and adjacent shoreline areas. Fish and wildlife that feed or pass through the area that have been impacted by the contamination also received consideration for restoration. The Council's focus is on the resources most injured by PCB releases--estuarine (tidal) waters and

adjacent coastal areas--as well as human uses of these resources. The four municipalities within the affected environment are Acushnet, Dartmouth, Fairhaven, and New Bedford, Massachusetts.

The source of funding for the Council's actions is a $21 million (now $24 million through interest) restoration fund, resulting from the settlement of a lawsuit brought under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") between the Federal Government, the Commonwealth of Massachusetts, and the companies responsible for releasing PCBs into New Bedford Harbor. A separate account funds the Harbor cleanup. By law and under the terms of the settlement agreements, the Council must finalize a restoration plan for the New Bedford Harbor Environment before funding restoration projects, although necessary plans and studies may be funded before completion of the plan. The purpose of this plan, therefore, is to provide a blueprint for restoring natural resources injured by PCB releases to the New Bedford Harbor Environment, while satisfying relevant legal requirements.

The Council proposed a combination of near-term, future and emergency actions, and plans and studies, as appropriate, that together would form the basis of an estuary-wide plan to restore the affected environment. The plan evaluates general restoration alternatives as well as specific restoration actions, and establishes a process for the evaluation, selection, and implementation of future restoration actions.

The Council identified six restoration priorities for the New Bedford Harbor Environment: (1) marshes or wetlands; (2) recreational areas; (3) the water column; (4) habitats; (5) living resources; and 6) endangered species. In February 1995, the Council announced its intention to develop a restoration plan/environmental impact statement ("RP/EIS")and the Council's initiation of scoping. Following a series of introductional meetings, the Council issued a public "Request for Ideas," inviting all parties to submit ideas for restoring natural resources injured by PCB releases to New Bedford Harbor. As a result, 56 restoration ideas were received from citizens, non-profit organizations, municipalities, academic institutions, state and Federal agencies, and private businesses. These ideas served as the alternatives for consideration in the RP/EIS.

The specific ideas received, by restoration priority follow:

Marshes/Wetlands

1. Restoration of Padanaram Salt Marsh (Dartmouth)
2. Restoration of Nonquit Salt Marsh (Dartmouth)

Recreational Areas

1. Rogers Street boat ramp (Dartmouth)
2. Taber Park (New Bedford)
3. Riverside Park/Belleville Avenue recreational marine park (New Bedford)
4. Boat ramp, fishing pier, parking area (Dartmouth)
5. Sportfishing piers (Dartmouth, Fairhaven, New Bedford)

6. Acushnet River recreation/preservation district (New Bedford, Acushnet)

Water Column

1. A living machine for water purification and habitat restoration in New Bedford Harbor
2. Bayview sewer project (Dartmouth)
3. Sol-E-Mar area sewer project (Dartmouth)
4. Rogers Street/Clarks Cove storm drain (Dartmouth)
5. East Clark's Point pumping station (New Bedford)
6. Cove Road pumping station (New Bedford)
7. Removal & disposal of PCB contaminated grit from main interceptor (from Pearl Street to Cove Street) (New Bedford)
8. Eliminating toxic chlorine discharge from Fairhaven wastewater treatment plant (Fairhaven)
9. New Bedford hurricane barrier eastern box culvert
10. Relocation of Fairhaven sewerage outfall: hurricane barrier modification (Fairhaven)
11. Bubble curtain installation: New Bedford barrier gate opening
12. Pumpout vessel for marine sanitary devices

Habitats

1. Constructed reefs for lobster and fish habitat enhancement
2. Artificial reef creation using abandoned fishing vessels
3. Eelgrass habitat restoration
4. Artificial reef

Living Resources

1. Fisheries restoration for Dartmouth Areas II and III (Dartmouth)
2. Upper Sconticut Neck/Priest's Cove shellfish restoration and sewer work (Fairhaven)
3. Restoration and management of the New Bedford area shellfishery
4. Massive seeding of large juvenile bay scallops in New Bedford harbor area
5. Hatchery startup assistance with Taylor Seafood (Fairhaven)
6. Acushnet aquafarm development
7. Shellfish restoration Town of Acushnet
8. Restoration of the Acushnet River herring run (2 ideas)
9. Anadromous fish restoration on the Weweantic River (Wareham)

Endangered Species

1. Restoration and management of tern populations.
2. Buzzards Bay tern restoration and stabilization project
3. Tern restoration - Penikese Island (Gosnold)

Other

1. Removal of Native American artifacts
2. Padanaram Harbor dredging (Dartmouth)

3. New Bedford Police Department Harbor Unit
4. Land conservation - Sconticut Neck marshes and coastline (Fairhaven)
5. Build a dam at the I-195 bridge with possible dewatering pump
6. Design and development of the New Bedford Aquarium complex
7. Amos Pratt - House 1810 (Acushnet)
8. Wood Street - North (Acushnet)
9. Herman Melville Shipyard cleanup (New Bedford)

Studies/Plans

1. Wetlands restoration planning and implementation: New Bedford Harbor Environment
2. Salt marsh restoration
3. Planning for nitrogen removal from the Fairhaven wastewater treatment plant
4. Long-term monitoring and restoration of shellfish habitats
5. Terrestrial ecological restoration habitat inventory, categorization and mapping project
6. Stock assessment of shellfish and predators in New Bedford, Fairhaven and Dartmouth, and market research for the products
7. New Bedford Harbor avian monitoring and restoration project
8. New Bedford/Fairhaven harbor master plan
9. Restoration management/visualization model of New Bedford harbor ecosystem
10. City of New Bedford - from brownwaters to green

A 15-member Community Restoration Advisory Board (CRAB) help to voice community interests in the restoration and to assist in disseminating information to the public about the restoration process. The Council evaluated the ideas received against the requirements of CERCLA and Council adopted restoration criteria, and drew upon input provided by the CRAB as well as a Technical Advisory Committee of agency staff and the Council's legal advisors. Public meetings and a public comment period ensured a full exchange of information between project proponents, citizens, representatives of the private and public sectors, and the Council throughout the evaluation process.

From the 56 ideas evaluated, the Council selected 12 preferred alternatives for near-term implementation. These 12 preferred alternatives were chosen because they best addressed the needs of the injured natural resources or the lost uses of those resources. They can be implemented without interference to or from the imminent cleanup activities. They also provide a balance between natural resource restoration and lost use restoration. Many will assist the Council in implementing future projects by increasing the understanding of the injury that occurred and potential restoration options. The Council invited public comment on the draft plan and held a public hearing. The RP/EIS includes both the written comments received and presented at hearing. The comments reflect the variety of issues and factors which the Council had to consieder. Upon review of the pubic comment, the Council approved 11 of the 12 preferred alternatives. The approved alternatives and initial funding levels are:

Marshes/Wetlands
Hydrologic restoration of Padanaram Salt Marsh, Dartmouth $16,000

Recreational Areas

Recreational and habitat improvements to Taber Park, New Bedford — $2,000,000
(Those elements not previously required by separate Court Order, consent decree, statute or regulation.)

Riverside/Belleville Avenue Marine Recreational Park, New Bedford — $35,000
(Initial site assessment)

Water Column

New Bedford hurricane barrier eastern box culvert — Funding level to be determined
(Request to the Army Corps of Engineers with possible cost-sharing)

Habitats

Eelgrass habitat restoration, New Bedford Harbor and Clarks Cove — $120,000 for first year
(Study component of project)

Land acquisition, Sconticut Neck, Fairhaven — (Purchase up to fair market value)

Living Resources

Restoration and management of the New Bedford area shellfishery — $298,000/year for 2 years

Restoration of the Acushnet River herring run — $600,000

Endangered Species

Buzzards Bay tern restoration and habitat stabilization — $124,000 for two years
(Council imposed prohibitions on: a) the use of toxicants; and b) lethal control on predators. The Council must be informed if approved non-lethal measures are unsuccessful. No lethal measures may be used in connection with this project without the specific permission of the Council.)

Plans and Studies

Wetlands restoration planning — $35,000
(Council requests justification if amount is greater.)

New Bedford/Fairhaven Harbor Master Plan — $50,000
(Aspects related to natural resources)

Total cost of the Council's near-term commitments is estimated at approximately $4 million of the $24 million restoration fund. In a number of cases, other state or Federal agencies are providing matching funds or in-kind services to leverage restoration dollars. These projects will

be monitored for restoration benefits and if appropriate, additional funding may be awarded in later years.

Since the Harbor cleanup is ongoing, restoration actions will be coordinated with that process to maximize environmental benefits while ensuring that neither process negates or interferes with the other. As cleanup of the Harbor proceeds, the Council expects that more restoration options will become practicable. The Council will follow an event-based process of idea solicitation and selection to choose future restoration actions, periodically selecting restoration actions that are practicable, effective, and appropriate in the context of the ongoing cleanup. Full public involvement in Council decisionmaking will be maintained in all aspects of the process.

Upon completion of the Harbor cleanup, the Council will allocate the remainder of the restoration fund toward completion of the restoration process. The NBHTC will solicit, select and fund a final round of restoration actions; following implementation and allowing for necessary oversight, the Council will disband.

The New Bedford Harbor Trustee Council approves the Final Restoration Plan and Environmental Impact Statement for restoration of the New Bedford Environment and authorizes the implementation of the preferred alternatives contained therein. The Trustee Council also approves the framework for future restoration activities.

Signed:

Michael Bartlett, U.S. Fish and Wildlife Service — Date
U.S. Department of the Interior

Signed:

Dale C. Young — 9-4-98

Dale Young, Executive Office of Environmental Affairs — Date
Commonwealth of Massachusetts

Signed:

Sally Yozell — 9/9/98

Sally Yozell, National Oceanic and Atmospheric Administration — Date
U.S. Department of Commerce

The Assistant Administrator of the National Marine Fisheries Service, acting for the Administrative Trustee, issues this Record of Decision to provide notice of this approval.

Signed:

9/22/98

Rolland A. Schmitten, National Marine Fisheries Service — Date
National Oceanic and Atmospheric Administration
U.S. Department of Commerce