



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

November 27, 2017

New Bedford Conservation Commission
133 William Street
New Bedford, MA 02740

Re: Remedial Alternative for Wamsutta Street Ditch at Railyard

Dear Commissioners,

The City of New Bedford is in the process of “closing out” the environmental remediation of the railyard relative to the Massachusetts Contingency Plan (MCP). We believe that the Engineered Barrier we have constructed in the railyard allows us to file a Permanent Solution with Conditions (an Activity and Use Limitation) for each of the city-owned properties with the exception of a portion of one City lot that contains a portion of the drainage ditch along Wamsutta Street. Data collected indicates that current PCB concentrations of 1.4ppm are present in the ditch sediment; this exceeds the corresponding EPA ecological risk sediment benchmark . Since the EPA’s Record of Decision (ROD) has permitted up to 50 parts per million to remain in the area of New Bedford Harbor that contributes to the tidal flow into the ditch, excavating impacted sediment from the ditch is not a permanent solution at this time.

Installation of a tide gate would be required to prevent future recontamination of the ditch after cleanup. This gate would allow freshwater to escape into the Acushnet River but prevent tidal waters from the river from entering the ditch. Matrix, the city’s LSP, has documented marine fish and a catadromous eel in the channel. The ditch area appears to be a marine habitat since the other source of water to this wetland system is freshwater urban stormwater runoff that enters the ditch from several pipes along the north side of the ditch, cannot explain the presence of saltwater fish.

After study, the City has reached the following conclusions:

- The portion of this vegetated wetland system which floods up to the spring high tide elevation would be classified as a Salt Marsh (310 CMR 10.32). The invasive plant *Phragmites* dominates the salt marsh bordering the tidal ditch. The elimination of the tidal waters from entering the wetland system would effectively prohibit the wetland system from functioning as a salt marsh.

- Under 310 CMR 10.32 (3) “A proposed project in a salt marsh, on lands within 100 feet of a salt marsh, or in a body of water adjacent to a salt marsh shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh.” From this standpoint it would appear that a tide gate cannot be permitted as it would destroy the ability of this intertidal wetland to function as a salt marsh and provide habitat for Marine Fisheries and support the other applicable Interests of the Act (Prevention of Pollution, Storm Damage Prevention and Groundwater Supply).
- MCP sites such as the railyard have a Limited Project Status under the Wetland Regulations (310 CMR 10.24(7)(c)(6), provided that the selected alternative meets the MCP’s remedial alternatives analysis prescribed in 310 CMR 40.0850. The MCP’s Benefit - Cost Analysis provision of this analysis states that the benefit shall justify the cost of the alternative unless “the alternative would destroy more than 5000 square feet of wetlands or wildlife habitat.” The alternative involving the placement of a tide gate to prohibit the influx of tidal waters to the salt marsh would in effect destroy more than 5000 s.f. of salt marsh and likely create an equal amount of freshwater Bordering Vegetated Wetland, provided the freshwater inflows support a stream. The impacts to the salt marsh would require mitigation, possibly in the form of the creation of an equal or greater amount of nearby salt marsh. This would be in addition to restoring the ditch and adjacent wetlands to a freshwater wetland system.

At this time, the City contends that the benefit of installing a tide gate and excavating residually-impacted soil would neither justify the permanent loss of habitat nor the cost of implementation and mitigation/replication. The Commission’s concurrence with this position will aid our plan to file a “Temporary Solution With Conditions” for the drainage ditch, with the intention of long-term monitoring of ditch conditions. We ask that you provide the Conservation Commission’s position regarding this matter.

Sincerely,



Michele Paul, LSP
Director of Resilience and Environmental Stewardship

Cc: Sarah Porter, NB Conservation Agent
Kevin Scully, LSP