CHAPTER 10: COMMENTS/RESPONSES

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10.1 Comments

11/08/96

Comments: N-1, N-5

NONQUITT SALTMARSH

When a private company or corporation pollutes or destroys a natural resource, they are required to clean up the pollution and restore the resource. The $20,000,000 in restoration funds is money resulting from just such an event.

The residents of Nonquitt have for over one hundred years and six generations functioned as a single corporate entity, with chosen members who determined policy: built roads, piers, buildings, hired employees and bought property. In short, through officers and an executive committee they conducted their common business affairs in the same accepted manner as the very companies we sued.

Drainage to the Nonquitt salt marsh occurred on their watch and on their property as a result of decisions made by their overseers over scores of years. Whether through lack of foresight, errors of omission, errors of commission; it doesn't really matter. They did it to their <u>own</u> property in their <u>own</u> very private enclave. They managed their own affairs and did not ask the rest of the world for anything but prompt mail delivery. (even on Sundays)

The salt marsh drainage has been an ongoing problem for most of this century, probably as a result of failure to dredge out the original outlet at Barekneed Creek and instead resort to a culvert and/or pipe located at Otter Creek. The Otter Creek outlet has been a maintenance problem for over seventy years and remains so to this day. Over the years there have been storms such as the 1938 hurricane which blew open the original outlet at Barekneed Creek and blew another outlet through the barrier beach midway between Barekneed Creek and Otter Creek (see aerial photograph). Perhaps Mother Nature was trying to tell them something. At least some of the long time residents of Nonquitt eventually began to get the message.

"In South Nonquitt, the marsh is quite sick. Nature is becoming a sign board full of dire warnings."

William julian Underwood, 1987

Mother Nature wasn't the only bearer of bad tidings: beginning sixteen years ago a series of studies of the marsh indicated all was not well. Quotes from the two latest studies follow.

1989 Study by Lloyd Center
for the Nonquitt Association

"...any corrective measures will be costly and will involve significant permitting obstacles. This includes any of Metcalf & Eddy's Solution Alternatives (1983). Before further action is contemplated, Nonquitt residents should reach a consensus on what direction to pursue,...."

1994 Study by Lloyd Center
for Dartmouth Natural Resources Trust

"A complete hydraulic study of the marsh ... is beyond the capabilities of the Lloyd Center and is probably cost prohibitive to pursue privately. However, the National Oceanic and Atmospheric Agency (NOAA) has expressed interest in the Nonquitt Marsh as a site for salt marsh restoration. The DNRT along with the Dartmouth Conservation Officer should pursue this possibility, which would bring the necessary expertise and funding to this project."

Faced with ominous signs and portents, Nonquitt prudently decided to quietly divest itself of the sick marsh and troublesome culvert. From 1983 to 1988 five parcels of the property were conveyed to a Philadelphia Conservationist Trust. This trust then conveyed the properties to the Dartmouth Natural Resources Trust in 1991 to 1993. Giving can be a generous act, but in some cases, such selflessness can be extremely self-serving. The private enclave of Nonquitt was now in a position to apply for restoration funds to study and perhaps restore the sick marsh that had been solely theirs for nearly a century. It seems quite apparent to me that some very well informed people surmised that restoration fund money was coming down the road long before the common folk knew it.

The irony implicit in this situation is that the hundred and twenty summer residences in North and South Nonquitt could certainly raise money nearly equal to the requested grant amount if assessed a thousand dollars per residence. For people of means this would not be a hardship. Consider this:

> *"The beach arrived at nine (she brought her own truckload of sand for her rocky shore), the liquor arrived at eleven, the servants arrived at three. Summer has begun!"*
>
> Prominent seasonal resident in South Nonquitt, 1970s

Confronted with such penurious behavior we should perhaps sue the Incorporated Proprietors of Nonquitt for damaging a natural resource (the salt marsh) and polluting the shore line and its shellfish with E.Coli bacteria.

Comments: N-1, N-3, N-5

From the Desk of:

LAWRENCE M. SYLVIA

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DATED FAX TRANSMISSION

1 of 4 Pages

Wednesday, January 15, 1997

NB Harbor Trustee Council
Att: Mr. Jack Terrill
37 North Second Street
New Bedford, Ma 02740

Dear Jack:

Please accept these comments from myself as an individual member of CRAB and as a Citizen of the City of New Bedford. I wish these cements to be sent to you in full text, and maybe combined with any other CRAB members comments, but MUST BE sent to you in entirety. I wish these comments to be included in the General Public comments once the EIS is released for Public review and comments.

In General the EIS is well written and contains all information that is needed to get the WHOLE picture on PCB's and the New Bedford Harbor. I suggest that you prepare an Executive summary to shorten the material sent, and if some wants to request the full package it will be available. If the general Public is to review the rationale behind the accepted Proposals, the full EIS is too much to read and understand. The Executive summary should contain the Rationale for the Accepted Proposals as well as the rejected ones.

I also request that the Chart that you did (without Corrections) that listed CRAB & TAC approved projected also be included in EIS. Somewhere in here it says that the CRAB and TAC made recommendations and I want the Public to SEE this list!!!!

A General Comment, There is still some dissention among some Crab members about the Process and judgements that where made by the Trustees and Accepted Projects. It is my personal belief that it is a Well Rounded Group of Projects and will benefit the Public and is the starting process to fulfil the Public interest.

When Crab made its recommendations we attached a list of Pre-Requisites that we would like if a certain Project(s) where to move ahead. Some-where along the lines they are forgotten or not made part of the letters of intent to move forward with a possible accept project. This has only lead to the increased and friction among CRAB members, including myself. It in many ways has lead to the general feeling that CRAB was used as a pawn or a Shield for the Trustees.

Comments on the EIS:

Pages 3-57 line 29 Incorrect
The Car & Passenger services from Steamship authority was ceased, but in 1985? A passenger service Cape & Islands Express(Scamanchi) was established from New Bedford to Martha Vineyard and is Currently operating .

Preferred Alternatives: pre-requisite should be added...
WETLANDS RESTORATIONS:
It is my understanding that for any Wetland Restoration Program to succeed there has to be clean and non polluted water to start. The Trustees, nor State of Massachusetts has set out a preliminary review to see if any Wetlands areas meet this clean non-polluted water review. With the limited dollars available, I would much rather spend it on Wetlands Restorations projects that will be successful, and not damage any other areas. This should be a pre-requieste before any proposal moves ahead. The DEM & MASS Wetlands restoration Agency, and along with Town/City Agencies should review water samples in salt Marshes at low use, and high use to make sure all areas are clean, and non- polluted BEFORE any dollars are spent.

Pages 4-14 4.3.1.22 NONQUIET SALT MARSH

Monitoring for 10 years by Private Agency and separate funding will be requested. Why in one proposal (4.3.1.2 Padnarm Salt Marsh) the Monitoring will be by the Dartmouth enviomental Affairs, Massachusetts Office of Enviomental Affairs & Wetland Restoration Program, and in the Same town a Private Group or consultant will be hired at an additional requested amount in the future for 10 years of Monitoring??? This Additional 10 years of Monitoring at Additional Costs WAS NEVER Reviewed by CRAB to my knowledge.

4-15 line 25 it can be debated if this area is OPEN to and serves as a recreational resources. Viewing from a Platform, maybe be educational, but Recreational in my minds means PUBLIC access and enjoyment and this AREA Doesn't Allow this with Access.

4-15 Lines 9-19 Benefits to resources:
There has been SERIOUS questions raised about the Water Quality to begin with in this Tidal Marsh. There is some growing belief that Cesspool Run offs and leakages has lead to a polluted Saltmarsh and any Additional Tidal OUTFLOW may bring this Polluted Water out into the Bay and may possible close the Fishing beds in the area. Until this allegation can be reviewed and water Quality samples taken for the Marsh at Peek (SUMMER) and Low (Winter) as well as Test of Cesspools in the Adjourning areas for Leakages, not funds should be Released for this Project. [see my General comments on Wetlands Restorations]

4-16 Lines 39 See comments above 4-15 9-19... IF this Marsh is indeed polluted or can be in summer months due to leakage from old Cesspools then the shellfish beds along with Fish in the Run off areas can be seriously damaged.

4-17 lines 15,16
Access is available by boat but by a private road???

Are you meaning Access is NOT Available by Boat, but by a Private Road?? Again access is PRIVATE, and only access is for a Newly constructed Viewing platform. And this viewing platform engineering and construction costs should not be included in funding for this project. It must be a pre-requisite for funding,,, if Projects meets all requirements including Water Quality.

4-52 NB area Shellfish Restoration
I believe that the Commonwealth along with the Federal Government has put a Dollar figure on the

Costs of all Shellfish in the Inner Harbor that has been lost or is Condemned. If I were to use current sampling and estimates the Lost $$ Amount can EXCEED the Total 20 Millions dollars in the current fund!!! Serious allocations must be given to present and future years. It list the costs as $425,000 for first year, and says the Program would continue for two additional years for a total of three years. That are the Budget amounts for the next two years?? I want to make sure that these additional two years funds don't get lost or misplaced!!!

4.3.6.21 BB Tern Restoration Project
line 43
I have SERIOUS problems with restoring Terms by (2) MANAGING GULLS (killing etc).
I feel that the Fourth component should become the FIRST toxicological analyses of tern eggs to monitor PCB levels.. All others should follow this as Number one. This seems to be the bases that ALL TERNS have and ARE Eating out of the Hot spots, and ALL Terms are damaged!!!

4-62 lines 25-26.. Where are these Whale Watching Tours operating out of New Bedford. Yes they may Winter in Fairhaven.. But they have NEVER operated out of New Bedford. Who ever wrote this should do his/her research. It could have said that the rebirth of Terns could lead to possible Bird Watching tours operating out of New Bedford, and maybe as successful as the Whale Watching tours operated out of other Massachusetts Ports!!!
This makes anyone who reviews this to QUESTION all of your written material be it either correct or in correct. This sentence damages the Whole EIS in my opinion. Now we have to spends Hours, upon Hours to review EACH Word and Sentence for correctiveness..

4-63 lines 1-10 Reliability of techniques.

If they plan to Use TRUSTEE Dollars to KILL GULLS, as they did else where on another Island.. I questions if this technique was reliable and Tested. I say it is not, and does not meet with the General Publics reviews of Wild Life Management. If the Trustees move ahead and Do Not put a prohibition on any of the Trustee Dollars being spent on Gull Killings, I will personally Lead a QUEST with Public Demonstrations, Letter Writing, Congressional Assistance, and well as the Radical Animal Rights Groups. This may in some ways hold up this Project and think it is very important. But No Other Species should be killed by any means with Trustee Money!!!!

4-64 Lines 25-34 Wildlife:
The most likely techniques would be that the to either trapping or the Poisoning of Adult Gulls....
Line 31-32.. The Physical...Islands would not have any adverse effect on any wildlife Species.....
WHAT ABOUT THOSE DAM GULLS you are GOING TO KILL & POISON??

See Comments above 4-63 1-10 No TRUSTEE FUNDS Should be used to Kill. Poison any other Animal or Gulls.. If this moves Ahead Be prepared for the FIGHT and demonstrations at all COUNCIL Meetings, and Press Conferences, and Black SHADOW on the Whole Trustees Restoration Ideas!!!!

Comments on this Proposal.. There is a pre-requisite that All Current Funding Remain in place and that the trustees Funds are in additional to current funds. NO Where does it list currents sources, and amounts of Present funds. It seems to have slipped in the cracks, and wish this information in the EIS!!!!
It concerns me that these tern Proposals are allot more lengthy than any of the Other Proposal, and looks like a JUSTIFICATION by the Trustees and Presenters.. It should be made to look and be the same lengthen as the others..

5-12 5.4.2.3 Budgets..

I do not remember, and yes forget things but at which meeting did the Trustees Vote to completely limit the near Term to Appx 5 Million? Does this Limit include all Possible future year funding? And all Current and Future Studies now or being funded presently??

7-2 Correction
I Lawrence M. Sylvia should be listed a Seafood Processor/Dealer Representative

I wish to thank you for the oportunity to review and comment on this DRAFT EIS.

Yours,

Larry Sylvia

LARRY SYLVIA,
MEMBER OF CRAB
Citizen of New Bedford
Forever Effected Family Harbor Property & Business Owner Of Seafood Processor/Dealer
& Other Inner Harbor Associated Business & Property Owner
(Box Company Inner Harbor North Front Street)

cc: Peg Brady , Alt. TrusteeComonwealth of Mass CZM
John Bullard NOAA Trustee
Michael Bartlett, USFWS, Trustee

MAR 27 1997

CITY OF NEW BEDFORD
MASSACHUSETTS

OFFICE OF THE CITY CLERK
133 WILLIAM STREET 02740-6182
Tel. (508) 979-1450

JANICE A. DAVIDIAN
CITY CLERK
CLERK OF THE CITY COUNCIL

CLAIRE P. LEMOS
ASSISTANT CITY CLERK

SHARON M. THOMAS
ASSISTANT COUNCIL CLERK

March 24, 1997

Comments: T-1, T-2, T-3

New Bedford Harbor Trustee Council, Jack Terrill, Coordinator
1 Blackburn Drive
Gloucester, MA 01930-2298

Dear Mr. Terrill:

At the meeting of March 13, 1997, the New Bedford City Council, acting on a motion filed by City Council President George Rogers and Ward Two City Councillor Paul Koczera, voted to "endorse the position enumerated by Jim Simmons, President, HANDS ACROSS THE RIVER COALITION, on the issue of the expenditure of funds by the New Bedford Harbor Trustee Council; and further, that we advise Senators Kennedy and Kerry, Congressman Frank, EPA Regional Office and Harbor Trustee Council of our position."

The poisoning, shooting and/or harassing of one group of birds to benefit another seems unnatural and excessive, not to mention an unwise use of federal funds and the reenforcement and rebuilding of an island that nature seems bent on removing seems to fly in the face of ordinary common sense and past federal policies.

Your help in this matter would be appreciated.

Yours very truly,

Janice A. Davidian, City Clerk
Clerk of the City Council

JAD:ros

cc: Mr. Jim Simmons
HANDS ACROSS THE RIVER COALITION
222 Union Street
New Bedford, MA 02740

H.A.R.C. ENVIRONMENTAL

The Honorable:

Senator John Kerry
421 Senate Russell Bldg.
Washington, D.C. 20510
Fax # 2022242742 D.C.
6175658510 Boston

I am writing this letter to make you aware (if you are not already) of the total OUTRAGE of the group that I have been elected to represent, Hands Across the River Coalition (H.A.R.C.) and possibly every person that has concerns about our environment on the whole south coast.
H.A.R.C., in partnership with the International Wildlife Coalition of East Falmouth, and others, request your assistance in a matter of great urgency involving the questionable expenditure of $680,000 being planned by the New Bedford Harbor Trustee Council (NBHT). According to their draft Restoration Plan and Environmental Impact Statement circulated to the Citizens Restoration Advisory Board (CRAB) members, the NBHT proposes to use $680,000 on so-called tern restoration projects which involve the following questionable methods and expenditures:

1. The poisoning, shooting and harassment of wildlife predators, including gulls, raptors (hawks, falcons, owls, [illegible]), night herons and various mammal predators on Penikese, Ram and Bird Islands in Buzzards Bay.
2. The expenditure of $400,000 for the Army Corp of Engineers to rebuild part of uninhabited Ram Island as it is being eroded by natural ocean and weather forces.

Our organizations applaud general efforts to help threatened and endangered species; however, the use of any of the New Bedford Harbor Superfund monies allocated to harbor restoration ($21,300,000) for the questionable killing of wildlife other than terns by certain sections of the US Fish and Wildlife Service is unacceptable. The USFWS is one of three members of the NBHT and is in a conflict of interest on this matter; they are funding their own agency with money which should be spent on projects which benefit a broader selection of wildlife and habitat in the specific New Bedford area affected by the PCB pollution.
Further to the above, the use of $400,000 to rebuild a small island in Buzzards Bay that nature is washing away, is extremely disturbing. If the logic is to spend this amount of money to help restore a wildlife habitat for one species that may have been affected by PCB, why not spend

H.A.R.C. ENVIRONMENTAL

this sum on sewage treatment or landfill capping in the New Bedford area. This would, in turn, help all species of wildlife (including valuable commercial fish and shellfish stocks) directly in the area hardest hit by the PCB pollution.

The Draft Restoration Plan is available from the New Bedford Trustee Council, as they have already circulated it to the CRAB group. If the NBHT is unwilling to provide you with this document, we will certainly be willing to provide you are copy.

Also please note that the Restoration Advisory Board voted against the project(s) in question, however, the New Bedford Trustee Council, made up of the USFWS, NOAA and the EOEA elected to ignore the CRAB vote and saw fit to award themselves the $680,000 for their "in-house" tern restoration programs.

Please assist us if at all possible. The citizens of the greater New Bedford/Buzzards Bay area need significantly better independent oversight of the PCB Superfund restoration monies. Twenty-one million dollars is a great temptation for the three governmental agencies involved and it appears it is a temptation they cannot resist.

THANK YOU FOR TIME TO CONSIDER THIS MATTER.

Sincerely yours,

Jim Simmons

PRES: International-Wildlife Coalition, Falmouth

Daniel Morast

Comments: G-1, G-2, T-1, T-2, T-5, T-6, T-7, T-8, T-9

ORENDA
WILDLIFE LAND TRUST

Comments on
Buzzards Bay/New Bedford Harbor Environmental Draft EIS

Submitted by: Barbara Birdsey
Trustee, Orenda Wildlife land trust
April 21, 1997

Re: Endangered Species Sections

1. The tern restoration programs are all outside of the three project areas. Comment G-1 Comment T-2

2. Sec. 3-32 Roseate, common and least terns are listed as being commonly observed from 1986-1995 while several species of gulls are rarely seen This applies to all four areas studied. Comment T-5

3. We were told that these tern projects should not include poisoning per a meeting with Ronald Lambertson (U.S. Fish and Wildlife) in March 1997 Comment T-1

4. The fourth component of the project description includes analyses of tern eggs to monitor PCB levels. This infers two things. Comment T-6

    a. That eggs and chicks would have to be destroyed to do toxicological testing which seems illogical if you are trying to have more terns.

    b. That there has apparently been study to determine that terns were endangered by PCB's. We would like to request a copy of this study.

5. Rational that this project would increase ecotourism is misleading as none of these areas are frequented by tourists. Ram and Bird Island might be visited by an occasional boater. Penikese Island is used as a school for juvenile male delinquents. Comment T-7

6. Cost: $124,000first two years, $762,000 the next four years. Nearly $1,000,000 out of the settlement seems a controversial sum when other major projects deal with the real problem - clean-up and protection. It should be acknowledged that, until the harbor is cleaned up, terns could still be exposed to contaminated food supplies. Comment T-8

P.O. Box 669 • West Barnstable, MA 02668 • (508) 362-4798 FAX (508) 362-7478

Comment T-9

It makes more sense to clean-up the harbor; then monitor the effect on terns before suggesting a drastic gull removal program.

Comment G-2

7. The local people and governmental bodies that the trustees are suppose to listen to are against these projects. They include:

CRAB Citizens Advisory Board
Hands Across The River Coalition
The New Bedford City Council

Why seek input if you refuse to acknowledge their concerns?

In light of the controversy at the Monomoy National Wildlife Refuge, any program that includes mass killings of herring and greater blackbacked gulls should be avoided. Public outcry in this instance proved that most citizens are opposed to mass extermination of gulls, especially by DRC 1339, as it causes a long and painful death.

415 Summer Street
New Bedford MA 02740

April 28th. 1997

MAY - 1 1997

Mr. Terrill,
The New Bedford Harbor Trustee Council,
One Blackburn Drive,
Gloucester MA 01930-2298

Comments: G-1, P-2, N-4, R-1, B-1, HE-1, T-2, H-1, W-1, NA-1

Re: $21 million cleanup fund for New Bedford Harbor, MA

Dear Mr. Terrill,

I understand that there are proposals to spend a portion of the resources in areas outside the New Bedford harbor! According to the Sunday Standard Times, dated April 27th. 1997, " Officials are pushing marsh cleanups in Nonquitt and Padanaram, seagull killing on Penekese Island and work on islands off Mattapoisett and Marion."

May I inform the New Bedford Harbor Trustee Council, that I consider these proposals to be an arrogant slap in the face, for the people who have had to tolerate a polluted environment. What is more, to take away capital from a poor area and give it away to a selection of well healed communities, shows a total lack of understanding as to the size and scale of the environmental problems around the Acushnet River.

I am very much in favor of using available resources to create a harbor master plan; restoration of the Acushnet River herring run; a wetlands study plan; the proposed Riverside Park construction; and a new proposed hurricane barrier box culvert installation.

May I also suggest another project for your consideration, which includes the planting of public trees either side of the river, up to one quarter of a mile inland from both river banks. The trees would for the most part planted either side of existing streets and would not only be a beautiful addition to our environment, but would help provide shade in the summer time, control water run-off and improve air quality. The planting would provide tangible evidence both sides of the river that there has been a real effort to mitigate the environmental errors of the past.

Yours Most Sincerely

Philip Bargioni Edward Metivier

Mr. Philip Bargioni and Mr. Edward Metivier of New Bedford
Tele. No. 508-996 8826, 508- 993 0632

PB/EM

CC: EM

I. C. T. NISBET & COMPANY, INC.
SCIENTIFIC CONSULTING

150 Alder Lane
North Falmouth, MA 02556
Tel: (508) 564-4958
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MAY 16 1997

2 May 1997

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

Comments: G-4, F-2, T-4

Dear Jack,

Comments on Draft Restoration Plan/Environmental Impact Statement

I wish to offer the following comments on the Draft Restoration Plan/Environmental Impact Statement (EIS), issued by the New Bedford Harbor Trustee Council (NBHTC) on April 8, 1997.

1. General comment on the Preferred Alternatives. I generally **support** the Council's selection of preferred alternatives, including most the of the specific restoration projects proposed for support (see list below). However, I have reservations about the appropriateness of one other project, because of questions about whether the resources that would be restored were in fact damaged by the PCBs discharged into the New Bedford Harbor Environment (NBHE).

(a) Resources damaged. For the NRD trial, the Trustees prepared evidence claiming damage for only three natural resources: sediments, shellfish, and terns. Although these claims were not proved in court, the EIS appears to accept that these resources were damaged (see section 3.5.2) and many of the restoration projects are addressed to restoring them. As far as I can tell by scrutinizing the EIS, the only other findings about natural resource damage are those listed in Section 3.5.3: impairment of recreational and commercial fisheries, reduced property values, and lost recreational use of beaches. Although there are a few statements in Section 4 that imply damage to other natural or human resources, I have not found any statement of the Trustees' findings anywhere in the EIS that would support these statements. For example, Page 4-20 states that "The natural resource damage assessment conducted for this action found significant impacts to recreational use and aesthetics resulting from harbor contamination." However, this statement appears to be incorrect, because page 3-56 states that the case was settled before the NRDA was complete, and the EIS makes no other reference to such a finding except in Section 3.5.3.3, which is limited to lost recreational use of beaches.

(b) Appropriate resources for restoration. I believe that projects that would restore (or provide the equivalent of) the resources mentioned in the previous paragraph are appropriate for restoration. These include the following projects:

2. Restoration of Padanaram Salt Marsh.
3. Restoration of Nonquit Salt Marsh.
4, 44, 55 (consolidated, see point 2 below) Restoration of tern populations.
5. Stock assessment of shellfish and predators.
6. Fisheries restoration for Dartmouth Areas I and II.
19. Restoration and management of the shellfishery.
24. Land conservation - Sconticut Neck.
32. Shellfish restoration, Acushnet.
33. Herring run restoration.
36. Hurricane barrier box culvert.
42. Riverside Park Belleville Avenue recreational marine park.
47. Eelgrass habitat restoration.

I believe that these projects are appropriately matched to the damaged resources, and I therefore **support** the use of Trust funds for these projects.

Comment F-2

(b) Partially inappropriate project. The remaining project proposed for Trustee support -- 18: Fort Taber Park -- is less clearly related to any damaged natural resource, and I believe that at least parts of this project as described in the EIS are inappropriate for Trustee support. There appear to be significant differences between this project and no. 42, in that the Riverside Park Belleville Avenue recreational marine park is specifically aimed at recreational use of coastal and marine resources, whereas the Fort Taber Park project would also include "...picnic areas, open areas, multipurpose playing fields,....community meeting facilities and .....an educational center focusing on the park's historical and military significance." There seems to be no basis for these specific aspects of the Fort Taber Park as restoration of natural resources damaged by PCBs. The EIS includes no findings that these aspects of recreational opportunity were in any way damaged or restricted by the discharge of PCBs. Absent such findings, I believe that the use of Trust money for these parts of the project would be inappropriate. Although these parts of the project are certainly desirable and would be socially beneficial, they should be funded from other sources. Page 4-21 states that Additional funding provided by the City of New Bedford will increase the scope of the project to provide greater benefits. This wording implies that the Trustees would support all the parts of the project listed, including the questionable ones that I have pointed out earlier in this paragraph. I urge the Trustees to reconsider their proposed support level for this project, and to limit their support to aspects of the project that are clearly related to injured resources. Project no. 42 provides an appropriate model.

Comment T-4

2. Buzzards Bay Tern Restoration and Stabilization Project: Clarification of the relationship between the proposed action and the proposed support. See section 4.3.6.2.1, pages 4-54 through 4-56. As indicated in the previous paragraph, I **support** funding of this project and consider it especially worthy of the Trustees' support because it is directly aimed at restoring one of the three resources for which damage was documented. The EIS does not make fully clear the relationship between the proposed project and the

proposed support. As stated under "Timeframe", page 4-54, this proposed project has been designed as a 6-year program: the Trustee Council has indicated its desire to fund only the first two years and then reevaluate. Accordingly, some of the comments in the evaluation (pages 4-54 through 4-56) need qualification, because they apply to parts of the program that would occur largely or exclusively in years 3-6. Specifically, the first two years' activities under the Habitat Restoration part of the project would be limited to scoping, design and permitting (the last activity to be conducted equally in years 2 and 3). Although it is appropriate to list likely benefits, costs, impacts and permitting issues of the construction part of this project at the present time, the EIS should make clear that the construction is not proposed to take place until years 4 and 5 (i.e., 2001-2002) and that the Council is not proposing to support this activity at present. The appropriate time to weigh these aspects of the program will be later, when the Council reviews the scoping and design and reevaluates this part of the proposal in light of firm estimates of cost and impact.

3. Buzzards Bay Tern Restoration and Stabilization Project: Discrepancies between Table 4.1 and the text. See section 4.3.6.2.1, pages 4-54 through 4-56, and Table 4.1, pages 4-9 through 4-12. There are two apparent discrepancies between Table 4.1 and the text:

(a) The table includes alternatives nos. 4 and 55, although these were consolidated into alternative no. 44 and consequently dropped as separate proposals. The footnote incorrectly suggests that 44 was incorporated into 55, rather than vice versa. It is somewhat misleading to include evaluations of alternatives 4 and 55 in this table, when they are no longer proposed independently. I suggest that alternatives 4 and 55 should be excluded from the table, perhaps with a footnote explaining their exclusion. The same procedure should be followed in other cases where proposals have been consolidated.

(b) The table indicates that several alternatives, including alternative 44, "partially meet [the criterion]" that the project should be "within the New Bedford Harbor Environment". However, selection criterion 2 on page 2-16 stated that "Project ideas that are outside of the New Bedford Harbor Environment will be considered, provided that they restore injured natural resources within the New Bedford Harbor Environment. This can occur for species that feed or spend a life stage within ..... or seasonally enter the Harbor Environment but move out into Buzzards Bay or the Atlantic Ocean." Alternative 44 (among others) meets this criterion fully, not partially. If the intention of this classification is to give lower priority to projects that are designed to restore resources within the NBHE but are actually carried out outside the NBHE, this should be stated clearly, and the lower priority designation should be distinguished from a classification that implies that the projects do not fully meet the selection criteria. I suggest in any case that the Council should review its decision to give lower priority to such projects. A project that restores the natural resources of the NBHE is equally valuable whether the

actual work is carried out inside or outside the arbitrary boundaries established for the area. The proposal for alternative 44 makes it clear why restoration of tern populations that use the NBHE can only be effected by a project conducted outside the boundary.

Comment G-4

4. Contaminant Distributions. See section 3.5.1, pages 3-56 through 3-57, and Figures 3.4 through 3.6. This section is limited to summarizing contaminant levels measured in sediments within the NBH Estuary. It gives no information of any kind on the occurrence or levels of contaminants in living resources such as fish, crustaceans, shellfish, or birds, even though this information is the basis for the findings of injuries to these resources in Section 3.5.2. This section should be expanded considerably to give details of contamination of living resources. Additional figures should be included to show the distribution and levels of PCBs (not only metals, as at present shown in Figures 3.4 through 3.6) in sediments and in selected living resources. The congener-specific PCB data generated by Aquatec (1990) and used as the basis for my conclusions (Nisbet 1990) about injury to terns and matching of "fingerprints" should also be cited and sumnmarized here.

5. Ecological Injury. See section 3.5.2.1, pages 3-62 and 3-63. This section is almost limited to cataloguing the extent to which PCB levels in fish and shellfish exceed the current FDA limit for edible seafood of 2 parts per million. The FDA limit, however, is totally irrelevant to assessing ecological injury. It is an administrative level which is used to determine whether edible tissues of fish and shellfish should or should not be permitted to enter interstate commerce. It was set (a long time ago, based on obsolete data on toxicology and interstate commerce) by balancing potential harm to human health against potential harm to the fishing industry. If it has any relevance to New Bedford Harbor, this would be for assessing economic injury -- the harm suffered by commercial fishermen and others resulting from harvesting bans. This section should be completely rewritten and replaced by an assessment of the actual and potential injury to fish, shellfish, and vertebrate consumers of fish and shellfish. The paragraph in this section dealing with amphipods and terns is appropriate in this respect, but seriously incomplete. It should be extended to deal with other groups of organisms and should include assessment of potential injury to species that have not been studied directly.

6. Wider Buzzards Bay Ecosystem. See section 3.5.2.3, pages 3-65. This section is incomplete, in that it does not cite other sources showing that PCBs migrating from New Bedford Harbor were responsible for elevated concentrations of PCBs in biota throughout Buzzards Bay. For example, a paper by Nisbet and Reynolds (Organochlorine residues in common terns and associated estuarine organisms, Massachusetts, 1971-81, Marine Environmental Research 8: 33-66, 1984) not only gave additional data on contamination in NBH, but showed that PCBs migrating from NBH could be traced in tissues

of mussels, fish and terns throughout Buzzards Bay. The citation of Nisbet (1990), although correct as stated, does not mention the evidence that I presented showing that the "fingerprint" of PCBs from NBH could be traced in biota in other parts of the Bay, and indicating that the terns that were lethally poisoned by PCBs had actually been feeding on fish within NBH.

Please incorporate this letter in the record of public comments on the EIS.

Yours sincerely,

Ian C.T. Nisbet, Ph.D.
President

Comments: P-2, N-7, R-1, B-1, E-1, L-2, HE-1, T-1, T-2, H-1, W-1

4 MAY 1997

Dear MR. TERRIL,

I am a registered voter, and as a lifelong resident of NEW BEDFORD, I have a vested interest in the "maintenance" of my home town!!

I wish to convey my opinions and my expectations on what should be done with the money alloted for the P.C.B. cleanup.

It has become quite apparant, that if left to themselves to make decisions on what to do with STATE and/or FEDERAL funding, that former Mayor JOHN BULLARD, current Mayor ROSEMARY TIERNEY, and various CITY COUNCIL members can and will squander and/or missappropriate millions!!!

I am, of course, referring to the annual "invisible" SNOW-REMOVAL fund and the recent 2.5 Million dollar School Dept. scandal.

My recomendations for any "early" spending are as follows:

1) Restoration of the ACUSHNET RIVER Herring run ($600,000)
2) Restoration of Eelgrass, N.B. Harbor, & CLARK,S COVE ($400,000)
3) NEW BEDFORD Shellfish management ($425,000)
4) Creation of a HARBOR-MASTER plan ($50,000)
5) Wetlands restoration study plan ($35,000)
6) RIVERSIDE PARK construction..... How about a SPORTS COMPLEX including: indoor SOCCER/HOCKEY/BASKETBALL/RACQUETBALL/LACROSSE/BATTING CAGES, ETC.
   This would bring TOURNAMENT,S and $$$$$ to NEW BEDFORD as well as give young men & women something else to do besides drugs!!!
7) Hurricane Barrier box culvert

I also wish it to be known that I very strongly do not want the money to be spent on:

A) MATTAPOISETT, MARION, and PENEKESE Tern & Seagull population control ($880,000 over 6 years) DO NOT SHOOT SEAGULLS!!!
B) Restoration of NONQUITT Saltmarsh ($166,000)
C) Restoration of PADANARAM Saltmarsh ($16,000)

I think the residents of B & C can pay for it themselves!!!!!

These projects & figures I got from an article in the STANDARD TIMES written by CHRIS GOSALVES in the APRIL 27, 1997 issue.
I would like YOU to send ME a copy of the complete list of the 56 total projects that were considered.
Please be expeditious with your reply.

Thank You for the opportunity to express my civic concerns.

Sincerely,

ALAN SWANSON

Alan Swanson

P.S. My writing adress is...

P.O. BOX 61021
NEW BEDFORD, MASSACHUSETTS
02746-0021

Comment: R-1

City of New Bedford

OFFICE OF CITY COUNCIL
133 William Street New Bedford, Massachusetts 02740 (508) 979-1455
Fax: (508) 979-1451

PAUL KOCZERA
Councillor Ward Two

May 9, 1997

New Bedford Harbor Trustee Council
c/o NMFS, F/NE02
1 Blackburn Drive
Gloucester, MA 01930

Dear Members of the Trustee Council,

I am writing to endorse the recommendation of the Trustee Council pertaining to funding a waterfront recreation park at the former Pierce Mill site. I support this recommendation for a multitude of reasons, several of which I will go over in this letter.

1. The river around the proposed site has one of the highest level of PCB's in the waterway.
2. The neighborhood has deteriorated over the years mainly due to the pollution in the river and the negative image associated with living near the river.
3. The area where the park will be located will unfortunately carry the burden of having 2 CDF's nearby.
4. The residents have and will suffer the long-term health effects caused by the PCB's and heavy metals in the river.
5. The proposed plan for the park meets the criteria for funding under the restoration guidelines.
6. This park would improve the quality of life for the residents and will give back a small portion of what was taken from them by the dumping of PCB's.

This concludes my comments on the Draft Restoration Plan. I will also like to add that I know the Trustee Council has been receiving pressure to release large amounts of the trust fund early. I would hope that funds will remain in the account for projects that have been approved but may have to wait for portions of the Acushnet River to be treated.

Sincerely,

PAUL KOCZERA
City Councilor

Residence: 115 1/2 Bullard Street New Bedford, MA 02746 Tel. (508) 992-7224

Center for Marine Science and Technology
University of Massachusetts Dartmouth

Brian J. Rothschild
Director
508-999-8193
508-999-8197 Fax

UMass Dartmouth

285 Old Westport Road
North Dartmouth
Massachusetts 02747-2300
USA

Comment: G-6

May 13, 1997
via fax: 202-482-2663

Mr. John Bullard
Department of Commerce Building
14th and Constitution
Rm. 5222
Washington, DC 20230

Dear John:

How's it going?

We had a renewed discussion the other day about how the Center for Marine Science and Technology could develop a program to monitor the New Bedford Harbor ecosystem.

In addition to being interested in the problem and developing our relationship with The Buzzards Bay Coalition, I am concerned that a thorough monitoring activity is not being undertaken. Without such activity, it will be extremely difficult, if not impossible, to manage remediation and recovery.

Please let me know your thoughts on how to proceed.

Sincerely,

Brian J. Rothschild

BJR/afw

University of Massachusetts
Amherst • Boston • Dartmouth • Lowell • Worcester

UMass Dartmouth is an Equal Opportunity and Affirmative Action Employer

Comments: N-6, N-8

575 Osgood Street
Box 6310
North Andover, MA 01845

MAY 23 1997

May 21, 1997

New Bedford Harbor Trustee Council
c/o NMFS, F/NE02
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Sirs:

I am writing in reference to your RP/EIS, Project 4.3.1.2.2, Nonquitt Salt Marsh Restoration.

From what I know of the situation the plan for replacing the present flushing system with an open channel should substantially increase the tidal exchange.

Mention is also made of the possibility that decomposition of the peat has decreased its elevations so that it may not recolonize with vegetation. Apparently probable water levels throughout the marsh should be determinable through hydrologic studies. If necessary, it would seem that a combination of dredging of some areas and building up others could facilitate re-vegetation. In any event, the planting of appropriate grasses over all or some of the marsh as done elsewhere could greatly accelerate normal growth.

It seems, therefore, that if the construction can achieve proper tidal exchange, both some dredging and filling as well as introduction of new grasses could become important to the success of the restoration process.

Sincerely,

Lyman G. Bullard

Lyman G. Bullard

MAY 27 1997

Congress of the United States

Washington, DC 20515

Comments: G-3, N-7, F-1, R-1, L-1, T-2, AQ-1, H-1

May 22, 1997

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

Dear Council Members,

We write to express our opinions on the most beneficial expenditures of the funds administered by the Council for the restoration of New Bedford Harbor.

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

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

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

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

PRINTED ON RECYCLED PAPER

As Members of Congress, we are very conscious of the fact that these funds exist for the benefit of the people in the New Bedford area, and ought to be used to enhance their ability to recover the full use of an asset that was diminished by environmental mistakes. Keeping millions of dollars of funds in a bank account for an indefinite period, except for administrative withdrawals, does not serve this purpose. We do not mean to endorse every proposal that you have put forward for the first round -- the expenditure in Nonquitt, for example, seems a dubious one given the priorities that we ought to be following. And we urge you to look very carefully at the thoughtful objections that have been proposed to the tern and sea gull population issue.

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

Sen. Edward Kennedy | Rep. Barney Frank | Sen. John F. Kerry

Comments: G-8, G-9, G-10, G-11, N-9, T-1, T-11, T-12

The volunteers of CRAB were charged with reviewing 56 proposals in 6 weeks: a total of 280 pages of text. Our discussion of these proposals was open, often heated, and very time consuming. We then voted openly, without secret ballots, and our vote was recorded by Ivo Almeida.

The Trustee Council did not allow any CRAB member to vote on any proposals that he/she submitted; and those of us who submitted proposals did not even get a copy of our proposals in our own packet. CRAB members who did submit proposals, freely made the other members aware of their involvement, and abstained in large part from the discussion of their own project(s).

Having conscientiously observed the rules of selection put forth under Trustee guidance, we assumed that the same process would be used by the Trustees in their deliberations. Only after the Trustees had made selections which inexplicably violated some of the very criteria that they had laid down for our selection process, did CRAB members learn that the Trustees' process was remarkably different. The difference emerged only after many questions posed by puzzled CRAB members, and even now the Trustees' selection process remains a thing of mystery to some of us; and therefore, probably to most common folk.

In order to clear up this mystery for those of us not schooled in the ways of our government agencies, I request that the Trustee Council answer some questions regarding their selection process and that both the questions and answers be included in the written record. I realize that the time constraints of this meeting (5-22-97) will prevent us from dealing with all these issues tonight, but I request complete answers from the Trustees in the near future.

CRAB was told that all Trustee Council members (and their staffs) did not participate in the selection process for all 56 proposals, but that a proposal is considered only by those who had expertise and/or knowledge of the material in a given proposal. Comment G-8

QUESTION: Who got to judge each proposal? Please give each person's position and agency affiliation, and if more than 1 person was involved, the recorded vote.

CRAB was told by the Trustees several times that the Trustee's business usually conducted at our joint meetings was quite lengthy because these meetings were the only time that the Trustees (and staffs) communicated with each other. Since CRAB never heard the Trustees

argue among themselves about any proposal at these joint meetings; it would seem that somehow a consensus had been reached beforehand. Comment G-9

QUESTION: How is this consensus achieved, by mental telepathy? Or perhaps, a quid pro quo arrangement to accept and support each other's proposal selections.

When members of CRAB raised questions regarding unclear issues of Trustee-favored proposals, these issues were never resolved or even considered further unless some CRAB member persisted in vigorously pressing the issue.

Just a few of many examples: Comment N-1

1. *What ever happened to the issue of "water quality" at Nonquitt raised by Larry Sylvia and Steve Cassidy?*
2. *Whatever happened to the request by Molly Fontaine that a caveat preventing the killing of seagulls be included in the Tern Project Proposal?* Comment T-1
3. *Whatever happened to Chris Moriarty's concern about the exorbitantly priced and totally inappropriate 17 foot boat requested by the Tern Project Proposal?* Comment T-11

CRAB members perhaps naively assumed that the Technical Advisory Group had arranged some access to professional and/or academic resources in any scientific discipline needed to assess the value of a submitted proposal. Based upon our fragmentary understanding of the Trustee selection process, this seems not to have been the case. Comment G-10

QUESTION: If the Trustees did not have the in-house expertise to judge a submitted proposal and did not seek it elsewhere, how could they conscientiously execute their stewardship of Restoration funds?

CRAB was told that submitted proposals did not have to be technically complete (indeed, on the limited space of the submission form, it would have been impossible to do so). CRAB was also told that financial estimates on submitted proposals needed to be merely "ballpark" figures. As a result, CRAB members asked very few hard questions of a technical or financial nature. Perhaps we wrongly assumed that the Trustees would carry on a rigorous examination of both these issues and that CRAB would be a part of this effort. Comment G-11

QUESTION: Why were some projects which were approved by CRAB, rejected by the

Trustee Council without any technical or financial basis for the rejection? Or does the statement, "I don't think it will work." constitute a rigorous technical review? Why were some projects rejected by CRAB, accepted by the Trustee Council without any rigorous examination of the scientific premise involved? Why has there been no rigorous examination of the workup of funds requested in accepted proposals?

Some examples: Comment N-5

1. *What about the proposed 10 year monitoring of the Trustee approved Nonquitt Project and its unspecified cost?*
2. *What about the unproven assertion that it would be "impossible" to restore drainage to the original natural channel at Barekneed* Creek? Comment N-9
3. *What about examination of the unproven assumption that the decline of the tern population is due in part to the effects of PCBs on mating behaviors?* Comment T-12

After the expenditure of time and effort by the volunteers of CRAB, offered willingly and in good faith, I for one would like to feel that we worked together with governmental agencies to achieve the best possible selection of submitted proposals and the best use of Restoration funds. I regret to say that I do not feel that way now. Complete and candid answers by the Trustee Council to my questions (and to those of other CRAB members) are urgently needed.

Steve Carlson

Comment: AQ-1

Satkin Mills, Inc.

8 Washburn St., New Bedford, MA 02740 (508) 999-1228

May 22, 1997

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

Dear Council Members:

It is difficult to refrain from redundancy with regards to the arguments and criticisms of the first round of projects selected by the Council. Further, by request of my colleagues, I have been asked to abstain from criticizing projects proposed by other sources, although as a citizen I abhor the constraint on free speech. I will comply with both requests however, knowing that arguments have been recorded in prior testimony before the Council regarding the project ideas, in variance to community concerns and trust that they remain clear to the Trustees. I will endeavor to once again appeal to reason and common sense in an attempt to secure funding in the current round of project selection for components of The New Bedford Aquarium.

Had the Council funded the aquarium feasibility study, we would still be waiting for approval and cash disbursement. Instead, we are now completing the design and feasibility phase, funded through a combination of state and city efforts. That fact alone is testament to changing priorities, driven by broad base community support. Similarly, new interpretations of NRD funding latitude, has been accepted by the Courts since the original request for ideas was submitted to the Council on the original application for $2 million by the Aquarium Corp. Under existing interpretations, approved projects have similar components to the aquarium proposal that are acceptable to the Trustees, they lack the enthusiasm of public support that the Council has seen from the private sector. If the Council has accepted shoreline parks, then the 3 acre park adjacent to the South Central portion of the city, on the aquarium site should also qualify under the same guidelines.

Given the additional caveats of economic benefit, and the independent Market and Economic Analysis, projecting mid-range attendance of 1,312,000 people visiting our harbor every year, it would appear that funding for this park in the Area One zone would have a higher priority for funding to the Trustees. To that equation, add the fact that the Council continually receives more requests by community citizens, representing

the largest and most diverse groups of organizations and individuals in the region, for funding to be applied to the Aquarium/Explorium/Public Park than all of the other proposals combined.

Under the tenet of "restore, replace, or acquire the equivalent of such natural resources", it is clear that long before this harbor was contaminated, it was a commercial harbor. A large measure of the loss suffered by the residents of this city is to the commercial value of this port. Globally, it is fact, that the changing nature of commercial ports is toward mixed-use harbor facilities. Absent any contamination, this port would likewise under-go commercial revitalization as a mixed-use facility. The mandate of this community (reinforced by state law under Chapter 91) dictates that our mixed-use port will retain its' commercial vitality with freight, the tradition of our fishing fleet and the additional exploitation of tourism, interested in viewing a working seaport. This fact is recently confirmed by Congressional decree, that created a National Whaling Historic Park. The meaning of the harbor in relationship to the national park, can only be comprehended adequately in context to the theme and proximity of the Aquarium/Explorium and the public park that extends into the harbor.

Achieving a pristine condition in a commercial port is not possible, either today or in the foreseeable future. To restrain funding from the central harbor based on an ultimately unachievable goal defies common sense logic. We believe that given the opportunity, we can demonstrate support for our position by some of the top experts of NRD law in the country. This process has not given us that opportunity.

If we are to adhere to the proposed schedule for implementing this project, based on the lengthy procedure of the Council thus far observed, it is unlikely that resolution will occur in a period of time to be beneficial to the citizens that have incurred the loss of value accrued to this environmental penalty. Conceptually, it is my belief that NRD funds are to compensate the citizenry for the loss caused by environmental damage. "Restore, replace or acquire the equivalent" in terms of Council decisions compensates the fewest number of residents but the largest force of political power. If the Council adheres to the principal of waiting for an end point resolution to the harbor clean-up, it is likely that few who where deprived of the value will be alive to reap the rewards of the judgment.

The mandate of a Trustee is to respond in the best interests of the beneficiary. The citizens of this community have made clear that funding a component of The New Bedford Aquarium is equivalent to acquiring the commercial loss suffered by the degradation of their harbor, in numerous public testimonies. It is however of far greater importance, for the long term preservation and stewardship of our marine habitat resources than most comprehend. This funding opportunity for the Trustees is time sensitive. Financial support has diminishing value if the project is delayed or deferred beyond the reasonable window of opportunity. Further, the match of funds just by making the site available, far over-shadows the investment of the Council.

I ask that you refer back to the words of EPA Region I Director, John De Villars, "No better use of New Bedford Harbor Trust Funds could be made than for The New Bedford Aquarium." The ancillary benefits specifically to this harbor and its' outreach to the global ocean systems are a compelling story of the Explorium programs. It has the singular ability to provide a venue for true interaction of community residents with science, education and economic development directly benefiting restoration of our damaged harbor environment.

In view of the extent of solid information thus far developed for this project, I ask that the Council review it's position for funding on what will be The New Bedford Aquarium and to reconsider, as a start, the original request for funding. To that end, we remain ready to provide the Council a detailed presentation of this project in order to better comprehend its' value to the mandate of the Trustees.

Very truly yours,

Frederick R. Satkin
President
Satkin Mills, Inc.

UNIVERSITY OF MASSACHUSETTS BOSTON
Department of Biology

100 Morrissey Blvd.
Boston, MA 02125-3393

Tele.: 617-287-6615
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email: hatch@umbsky.cc.umb.edu

May 22, 1997

MAY 23 1997

Comments: F-2, T-4

Mr. John Terrill
New Bedford Harbor Trustee Council
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Mr. Terrill,

I offer the following comments on the *Draft Restoration Plan/Environmental Impact Statement* issued by the New Bedford Harbor Trustee Council on April 8, 1997. I write as a Biology professor with extensive experience in Buzzards Bay.

In general I approve of the selected proposals that address restoration of damaged resources. However, it is not evident that all the proposals do so sufficiently: for instance, the Fort Taber Park (page 4-20) includes substantial components that do not appear to be restoring natural resources injured by discharge of PCBs.

Section 3.5 on *Injury to the Environment* includes very little information about the distribution of contaminants in the biota, either in New Bedford Harbor, or in the wider Buzzards Bay Ecosystem. A paper by Nisbet and Reynolds (1984. Marine Envir. Research 8:33-66) is relevant.

Concerning the tern restoration project: it is my understanding that injury to these bird populations has been documented, and I consider that the proposed project (page 4-54) will be contributing directly to restoration. From my personal experience I know that both Common and Roseate terns feed in the New Bedford Harbor Environment. Terns form an integral part of coastal ecosystems and the proposed work is particularly appropriate for funding.

Sincerely,

Jeremy J. Hatch
Associate Professor

Comments: G-1, P-2, N-2

City of New Bedford

OFFICE OF CITY COUNCIL

133 William Street • New Bedford, Massachusetts 02740 • (508) 979-1455

George Rogers
Councillor at Large

City Council President

MAY 29 1997

Mr. Jack Terrell
Ex.Dir.
NEW BEDFORD HARBOR TRUSTEE COUNCIL
Fax 508 282-9301

5-23-97

Dear Mr. Terrell:

Following another story in the local newspaper and having had an opportunity again today to appear on a local talk radio show, I have to advise you that there continues to be a great deal of concern, not only by those of us privileged to represent the citizens of this community in our elective capacities, but also by the public as a whole, on the issue of use of Trustee Council monies on projects that in NO way will benefit the NEW BEDFORD HARBOR.

I refer, of course, specifically to the various projects being considered for funding in the neighoboring communities,BEFORE a dime is spent in NEW BEDFORD.

It is not that we begrudge our sister commuunities some benefits from the Council funding,but it does seem not only inappropriate but downright INDECENT to fund a Padana am project, for example, before the most hard hit area of the City, the Riverside Park area.

I think that any reasonable person would agree that the money should FIRST be spent in New Bedford and then, if funds are still available, spend some in the towns, but please, let's get our priorities straight.

I will ask the City Council to endorse this lettee and the sentiments contained therein at our next Council meeting on June 12.

Please consider this communication yet another "comment" to be included in your ongoing process.

Sincerely,

George Rogers
Council President

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

FAX: (508) 997-2202

Comments: P-1, N-8, NA-2

Arthur F. Machado
8 Hacker Street
Fairhaven, MA 02719
(508-993-4727)

The New Bedford Harbor Trustee Councill
c/o Mr. Michael Bartlett
One Blackburn Drive
Gloucester, MA 01930-2298

MAY 29 1997 May 25, 1997

Dear Mr. Bartlett:

I am writing to recommend to you and the other trustees an important restoration project not currently on your list of preliminary proposals. I plan to attend the June 18th meeting at the Seaport Inn in Fairhaven and would appreciate an opportunity at that time to discuss the proposal with the Council and with other meeting participants.

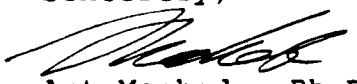
You are quoted in the May 23rd New Bedford Standard-Times as stating that..."saltmarsh is the basis for the whole aquatic food chain, including fish and shellfish. Fishing waters will benefit from restoration, which will restore the economy". I couldn't agree with you more; and my proposal involves protecting a saltmarsh which, because of its location in the outer harbor itself, more directly impacts restoration of the harbor than do marshes in Padanaram and Nonquitt (though I strongly support restoration and protection of these marshes as well).

I am proposing that the Council use funds at its disposal to purchase currently vacant but technically buildable lots on the shore side of the saltmarsh at Priest's Cove on Sconticut Neck. These lots at the west end and on both sides of Hacker Street are held by absentee owners identified in Fairhaven Assessor's Office records as John J. DisAngro Sr. and John J. DisAngro Jr. of 7 Kettering Rd., Norwood MA 02062 (owners of lots on N. side of Hacker); and Allan R. and Earl J. Correia of 281 Sweetgum Ct., Palm Harbor FL 34683 (owners of lots on S. side of Hacker).

Though these lots are technically buildable, it is highly unlikely that the Fairhaven Conservation Commission --on which I sit as an Associate Member-- or the State D.E.P. would approve construction. The lots, therefore, could probably be purchased at bargain prices. Town ownership would insure a protective buffer for this very important saltmarsh. The project would also demonstrate the Council's concern for saltmarsh that *isn't* situated near "affluent, summertime communities". Priest's cove is decidedly middle class and overwhelmingly year-round residential.

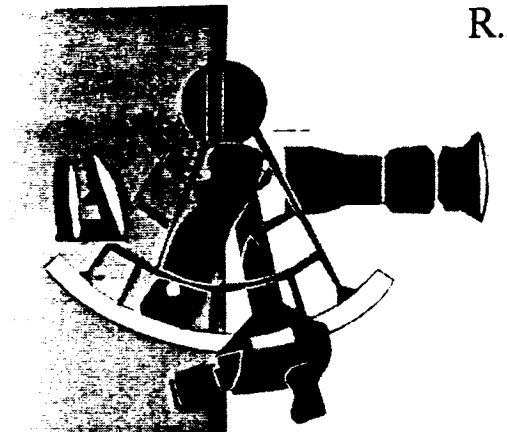
Please submit my proposal to the Council. I will be happy to provide whatever additional information you or they require either before or during the June 18 meeting in Fairhaven.

Sincerely,



Art Machado, Ph.D.

Comments: G-1, P-2, N-2, N-4



R.M.Gracia, D.M.D.,M.D.
20 Fort St.
Fairhaven, MA 02719

MAY 29 1997

5/25/97

The New Bedford Harbor Trustee Council
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Sir:

Let me join the opposition voices to spending the New Bedford Harbor restoration money on projects in Nonquitt and Padanarem. While we all know that salt marshes are important in the food chain, it is a far stretch to say that this is significant in restoring New Bedford's harbor. The pollution damage was done to New Bedford's harbor and the money is to be used to correct this damage. Now lots of people from nearby areas want to dip into the pot. The people who live in Nonquitt have fouled there own area. It is a private enclave and they should manage this problem privately by seeking their own grant from the State or Federal agencies.. The people of New Bedford don't have the clout in the Statehouse or in Washington and it is up to the trustees of this fund to see that they are not shortchanged by this money being spent in other areas. There are projects all over Buzzard's Bay that are worthy and should be tackled but this fund was set up to help New Bedford and should therefore be spent in New Bedford.

Sincerely,

R.M.Gracia, D.M.D., M.D.

Comment: T-4

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

May 27, 1997

New Bedford Harbor Trustee Council
One Blackburn Drive
Gloucester, MA 01930-2298

MAY 30 1997

Dear Councilors:

I would like to comment on the draft RP/EIS for New Bedford Harbor. I am writing as one of the primary architects of the plan to restore common and roseate tern populations in Buzzards Bay. I have followed stories in the press and attended the public hearing on the draft EIS in New Bedford on May 21, 1997 to gain a better understanding of the general public sentiment that surrounds the tern restoration plan. In my capacity as State Ornithologist for the Commonwealth of Massachusetts and as Leader of the federal Roseate Tern (Northeastern Population) Recovery Team, I feel compelled to address these issues.

I realize that the citizens of New Bedford are looking at restoration funds to address a broad spectrum of community needs. Whether or not these additional ideas should be funded is, of course, yours to address. For the short term, I would like to point out that the tern restoration proposal (1) is a direct restoration of a damaged resource, (2) is expected to be supported by very substantial in-kind cost-sharing from a number of agencies and organizations, and (3) involves a rather modest cost, especially if spread over 6 years.

While you have indicated support for only the first 2 years of the project, 1998 and 1999, to be followed by an evaluation, I would like to reemphasize that all aspects of the tern restoration plan are important for its ultimate success. Elements in the plan are all important tasks identified in the federal Roseate Tern (Northeastern Population) Recovery Plan. I recommend that the total package be funded for 6 years. This would ensure the long-term success of the restoration project.

Obviously, I think the tern restoration proposal is a very strong one and I can attest to the fact that it is solidly based on good science, the experience of the best people in the field, and sound management strategies. First, I'd like to address one of the

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most controversial parts of the plan, the element that calls for the restoration of the historic Penikese Island ternery. George Mackay wrote (1897) that this island had been a major tern colony since the earliest recollection. As late as 1952, then State Ornithologist Joseph A. Hagar estimated there were 7-10,000 pairs of terns, but by 1960 the island had been overrun by gulls.

In order to restore terns on small islands where they once bred and where they have been outcompeted by gulls, some form of gull control is an essential element. This has been accomplished with great success at several sites in Maine and at Ram Island in Mattapoisett, Mass. in 1990-1991. Gull control is only one side of the coin; the other side, less recognized, is endangered species restoration. Chemical control with DRC-1339 is why we have terns at Ram Island today and why we have Atlantic puffins nesting in Maine. I would just like to point out that this is a proven, safe methodology that has been hugely successful. The Monomoy experience was an aberration.

The concern over gull control at Penikese has been way overblown. In reality, it is quite likely it would not even have become an issue, had it not been for the influence of last year's experience at Monomoy. In addition to the successful use of 1339 gull toxicant at Ram Island in 1990-1991, a successful pilot application was also made at Penikese Island in 1995. The planned work at Penikese Island would be on a small portion of the island known as "Tubb's Island". I estimate that about 250 pairs of "large gulls" (herring & great black-backed gulls) would be killed, or about 30% of the gulls at Penikese Island as a whole. That 250 pairs of gulls is less than one (1) percent (.007) of the 32,661 pairs of gulls estimated by my agency to be nesting in Massachusetts in 1995.

You should be aware that gulls have been determined to pose a threat to health and safety by contaminating surface water supplies and by creating a hazard at airports. My agency and sister wildlife agencies in other states have been working diligently with other agencies to downsize the regional gull populations by restricting food resources at open landfills. While this strategy appears to be working, with nesting "large gulls" estimated in 1995 to be off about 30% from a decade ago, it does not eliminate the occasional need for small localized control programs to accomplish other objectives. Restoration of terns at specific sites is one such objective.

The need to restore the ternery at Penikese Island is urgent. As of 1996, about 87 percent of the remaining roseate terns in the northeastern U.S. (3,215 pairs) were all concentrated at 3 sites---Bird and Ram Islands in Buzzards Bay, Mass. and Great Gull Island off eastern Long Island, N.Y.--and 1,715 of these pairs were at Bird and Ram Islands. Roseates share Bird and Ram Islands with some 2,880 pairs of common terns. Restoration of the ternery at

Penikese Island is a strategically important element in the overall restoration plan for terns in Buzzards Bay, including the New Bedford Harbor environment. Based on inspection of the erosion damage at Bird and Ram Islands on May 8, 1997, this is even more crucially important than I realized at the time the plan was drafted. Unless and until lost habitat is repaired at these sites, terns in Buzzards Bay have no other alternative sites for nesting.

Because of the crucial conservation importance of restoring the Penikese ternery as soon as it can possibly be accomplished and because of the seriousness of the chemical control issue, I have decided to modify the original plan to reflect the public's distaste for the use of chemical control. Even though control with 1339 gull toxicant is the most effective and cost efficient method known, the overall plan is far too crucial for restoration and recovery of tern populations to allow it to be jeopardized by the chemical gull control issue. I am therefore amending the proposal to remove chemical control and replacing it with alternative, more labor intensive techniques.

I would be pleased to respond to questions you might have, either directly or through the Technical Advisory Committee. Reflecting the reality of the situation, I plan to immediately begin drafting appropriate revisions to remove chemical gull control entirely from the plan. I hope that this will address a major concern and make the plan more acceptable to all.

Sincerely,

Bradford G. Blodget
State Ornithologist

May 28, 1997

New Bedford Harbor Trustee Council
C/o NMFS, F/NEO2
1 Blackburn Drive
Gloucester, Mass. 01930

Comments: P-2, F-2, E-2, L-2, Sh-2, HE-1, T-2, T-10, NA-3

Dear Sir;

Thank you for sending me a copy of the Draft Restoration Plan, for the whole New Bedford Mass. Harbor, it was very interesting reading!

But the following part of your plan has nothing to do with restoration: Padanaram Salt Marsh @ $16,000., Nonquitt Marsh $186,000.,Fort Taber Park $2,000,000.,Eelgrass habitat $400,000. (Which is not needed in this type of harbor), Land acquisition,on Sconticut Neck in Fairhaven, Mass. $380,000., (To much land in this state is in land trust at present) Living Resources of the New Bedford area Shellfishery $425,000., Needless killing of Sea-gulls, for Buzzards Bay terns, on Bird, Ram and Penikese Islands in Buzzards Bay, as stated in your hearings, the many dead Sea-Gulls I have found on the beachs in Fairhaven a few years ago, were from a Sea-gull kill on a Penikese Island, as was stated in your hearir $124,000. for 2 years).

All sea-gulls are a great benefit to humanity, they have very strong bodys and eat all sorts of by-products most other sea birds would never eat. These other birds a few people claim they are helping is all a gimmick to spend a lot of money to creat other problems in our close by ocean, if sea-gulls did not clean the food by-products, from humanity and nature then uncontroled sicknesses would befall humanity here.

Such problems are in this New Bedford, Mass. harbor, since Route 195 was allowed to pass through the city and into Fairhaven, Mass., When others wanted this route to go around this area, rain and snow run off ends up in this harbor, presently there are those who look the other way at this big problem.....But I have been watching a town the size of Fairhaven just south of Worcester, Mass. the past thirty years, this town has the niceest lake in all of Massachusetts....but in recent years that lake has become very oilly, just like the waters in the New Bedford, Mass. harbor, in that town much umusual weed grouth has taken place in that lake, in winter 30 years ago people use to drive their cars on to that lake to go fishir but now they are wondering why the waters in that lake do not freeze right, to many power boats use that lake in summer, but that is not the problem!! These same people do not realise that Route 395 should never have been built so close to their lake. But the type of tires made these days and the lamp-black put into them, to make them black, as they wear, it goes t

For above reason, the restoration of shellfishery and use of $825,000. should not be allowed at present. Untell more is known why the water in this harbor is so oilly!

That which should be allowed at present, should be the Acushnet River Herring run, building of fish-ladders at each of the 3 dams, rebuilding of the gate at the lake to control water fowl into the river,and the removeal of loam which has washed into that river since it once was taken care of, there is also one more stone dam in this river where Fairhaven village was once located, when Fairhaven and Acushnet were once known as Fairhaven, I visited it 25 years ago.

In time the EPA plans to bury the dredged PCB's along the banks of the upper river, but this Restoration group and the EPA should work together, there in the water about 30 feet from shore at the end of Sawyer Street a Coffer Dam should be built, 200 feet long by 100 feet wide, rubber lined, into all sludge from the harbor should be placed into it, plus that, that is stored presently on shore, this building of a CDF as stated in Figure 5.4 of your restoration plan, this man made island would in time be covered and capped, with a cement cover, it is in that whole area I would like to see made into a park like the one on the water front in Toronto, Canada, known as Ontario Place and Exhibition Place, there a cruise ship is on stils in the water, here a Whale ship could be built from the water line up on the CDF, with sails, this type ship would never leave this harbor and a Exhibition hall for the U.S.A. , in this planned park would be using restoration funds, of good use for this whole area.

Sincerally, Yours

Roman Rusinoski

Roman Rusinoski
P.O. Box 163
Fairhaven, Mass. 02719-0163

City of New Bedford
OFFICE OF THE MAYOR

MAYOR
ROSEMARY S. TIERNEY

133 William Street
New Bedford, Massachusetts 02740
508-979-1410
Fax: 508-991-6189

Comments: F-1, H-1

May 29, 1997

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

Dear Trustee Council Members;

I am writing, on behalf of the City of New Bedford, to provide comment on the Draft Restoration Plan/Draft Environmental Impact Statement for the New Bedford Harbor Environment.

The New Bedford Harbor Environment was significantly impacted by the release of polychlorinated biphenyls (PCBs) and other contaminants into the harbor. These impacts have had great and severe effects on the natural resources, economy, and citizens of the Harbor Environment. The Restoration settlement funds provide an opportunity to overturn these effects and make the New Bedford Harbor Environment cleaner, livelier, more economically advantaged and more accessible to the public. The Draft Plan contains many projects that will assist in doing just this.

I would like to express my strong support for projects such as Fort Taber Park, the Restoration of the Area's Shellfishery, and the development of the New Bedford/Fairhaven Harbor Master Plan. Furthermore, I applaud the Trustee Council's efforts to initiate this first round of funding prior to the completion of the Environmental Protection Agency's (EPA's) cleanup, and encourage the Council to consider a second round in the near future.

I appreciate the opportunity to comment, and I look forward to the implementation of the Restoration Plan.

Sincerely,

Rosemary S. Tierney
Mayor

cc: Congressman Barney Frank
Senator Mark Montigny
Arthur J. Caron Jr., Corporation Counsel
Molly Fontaine, Environmental Planner

Comments: N-1, T-2

Comments regarding: Draft Restoration Plan / Environmental Impact Statement for New Bedford Harbor

MAY 29 1997

Bob Rocha

My remarks mirror what has been our primary concerns for the last few meetings, primarily the Tern Restoration Project and the Nonquitt Marsh Project.

Nonquitt Marsh: My concerns are: spending money on a marsh that will still be polluted by discharge from failing septic systems and public access. The access issue seems to be receiving attention from DNRT and other involved parties. I have no idea what's happening with septic systems. However, we should press hard for a guarantee that septic problems will be dealt with before money is spent, and go public about our desire for this guarantee.

The politics (the apparent inside track) involved with this project are dubious at best. But if the other concerns are dealt with I hope that we won't vote against this project and thereby punish the species that could benefit from this marsh restoration.

Tern Restoration: For the first time, the text in this document attempts to make some sort of correlation between ingestion of PCB tainted fish and effects on tern habitat. However, this document also points out that Fish and Wildlife owns Ram and Penikese Islands (P. 4-61). This fact, and the arrogance shown by Ken Carr at the joint TAC - CRAB meeting, gives me the impression that this project will get rammed through (pardon the pun) no matter what objections are raised. It looks as if they've had their minds set on this for a while.

The project does have some merit, at least for Bird and Ram Islands. (Including Penikese is too much of a stretch.) We do have to remember that this project involves an endangered species. Damage to this species was also used as a determination for resource injury and compensation funding. (P 4-62).

Once again, the politics of this case are very distasteful but an endangered species stands to benefit.

Comment: N-8

Alexander Y. McFerran
423 Sandy Valley Road
Westwood, MA 02090

May 29, 1997

MAY 30 1997

New Bedford Harbor Trustee Council
c/o NMFS, F/NE02
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Sirs:

I am writing in reference to the project planned to restore the Nonquitt Salt Marsh---RP/EIS, Project 4.3.1.2.2.

It is my understanding that this project is designed to restore tidal flows to the Nonquitt Marsh, and thereby stimulate marine life in and vegetation around the marsh. I am in favor of such an undertaking since I have watched the deterioration of the Marsh for the last twenty years. The revitalization of the area will benefit the environment in and around the Marsh as well as in Buzzard's Bay. All of us in the area will benefit from the ecological reclamation that will take place if the project is a success---which I hope and expect it will be.

Sincerely,

JUN - 4 1997

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Nongame Advisory Committee

30 May 1997

New Bedford Harbor Trustee Council
One Blackburn Drive
Gloucester, Massachusetts 01930-2298

Comment: T-4

As Chairman, I am writing on behalf of the Massachusetts Nongame Advisory Committee in support of the proposal for tern restoration within Buzzards Bay. The Committee unanimously approves and considers the tern restoration proposal included in the draft RP/EIS to be timely and crucial. The proposal addresses all of the key elements identified in the federal Roseate Tern Recovery Plan and focuses on the three sites within Buzzards Bay—Bird, Ram, and Penikese Islands.

The seven member Nongame Advisory Committee was established under M.G.L. Chapter 131, ¶ 5B. It is charged with advising the Director of the Division of Fisheries and Wildlife on matters dealing with all plants and animals that are not hunted or fished. Therefore it works with and advises the Division's Natural Heritage and Endangered Species Program. Each member's career has been as a professional biologist or naturalist (see attached list). The Committee's overall objective has been to maintain and enhance the Commonwealth's biological diversity.

The Committee has concluded that the restoration and conservation of tern populations in Massachusetts requires proactive management. Tern populations have clearly suffered long-term declines in the Commonwealth. This has been the result of predation by and competition with gulls plus the physical erosion of the islands on which they have nested. Now, most remaining nesting colonies are on the mainland where they are more vulnerable to predation by mammals.

In Massachusetts during the 1940's, the Common Tern population was estimated at 40,000 pairs and the Roseate Tern population at 5,000 pairs. By 1996, there were 11,221 pairs of Common Terns and 1,721 pairs of Roseate Terns. The severe decline of the Roseate Tern population and its restriction to just a few sites, caused the U.S. Fish and Wildlife Service to list it as an Endangered Species. The decline of the Common Tern resulted in its listing as a Special Concern Species by Massachusetts.

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An Agency of the Department of Fisheries, Wildlife & Environmental Law Enforcement

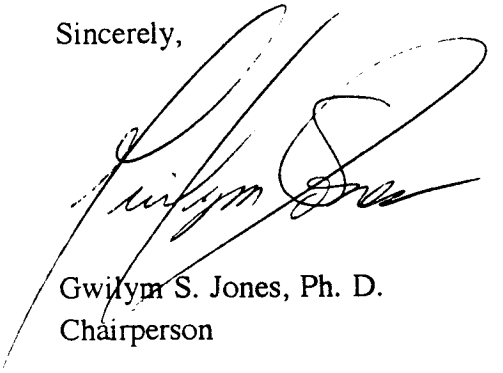
Restoration of the endangered Roseate Tern, which nests only among nesting Common Terns, is particularly urgent. Two of the three nesting colonies in North America are in Massachusetts—Bird and Ram Islands. These two colonies in Buzzards Bay contain more than half of the Roseate Tern population in North America. (The third site is nearby on Great Gull Island, eastern Long Island, New York.) Adding to the crisis is the fact that both Bird and Ram Islands are suffering severe erosion. This emphasizes that restoration of the Penikese Island historical tern nesting site is critically important.

Further, terns from the Buzzards Bay colonies range into New Bedford Harbor. Because terns were one of the three resources identified as having been negatively impacted by PCB's in the out of court settlement, it is appropriate to direct sufficient restoration funds to aid in the recovery of their population. Remediation within the harbor should be accompanied by recovery of the colonies.

The tern restoration proposal is strong, addressing the four crucial elements that are essential for tern population recovery—1) protective management of existing colonies at Bird and Ram Islands, 2) restoration of the nesting colony on Penikese Island, 3) habitat restoration at Bird and, possibly Ram, Islands, and 4) testing of tern eggs and chicks for PCB contamination. The proposal is well constructed..

Thank you for the opportunity to present our views. The Massachusetts Nongame Advisory Committee urges you to fund the tern restoration project.

Sincerely,



Gwilym S. Jones, Ph. D.
Chairperson

Members, Massachusetts Nongame Advisory Committee

Kathleen Anderson, founder Manomet Bird Observatory; ornithologist
22 Winter Street, Middleborough, MA 02346
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