

Research (Primary and Alternate).

Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve either a two or three-year term, pursuant to the Advisory Council's Charter.

**DATES:** Applications are due by December 31, 2005.

**ADDRESSES:** Application kits may be obtained from Rowena Forest, Advisory Council Coordinator, Gulf of the Farallones National Marine Sanctuary, P.O. Box 159, Olema, CA 94950, (415) 663-0314 extension 105, [rowenaforest@noaa.gov](mailto:rowenaforest@noaa.gov), and over the Internet at: <http://farallones.noaa.gov/manage/sac.html>. Completed applications should be sent to the above mailing address.

**FOR FURTHER INFORMATION CONTACT:** Rowena Forest, Advisory Council Coordinator, Gulf of the Farallones National Marine Sanctuary, P.O. Box 159, Olema, CA 94950, (415) 663-0314 x105, [rowenaforest@noaa.gov](mailto:rowenaforest@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Gulf of the Farallones National Marine Sanctuary (GFNMS) was established in 1981 to protect the near shore waters of the California Coast north and west of San Francisco, and the offshore Farallon Islands. The Sanctuary includes nursery and spawning grounds for commercially important species, over 33 species of marine mammals, and 15 species of breeding seabirds. The Farallon Islands themselves contain the largest concentration of breeding seabirds in the contiguous United States. Key habitats include coastal beaches, rocky shores, mud and tidal flats, salt marsh, estuaries, and pelagic waters.

Additionally, the area within the Monterey Bay National Marine Sanctuary (MBNMS) north of the San Mateo/Santa Cruz county boundary is administered by the GFNMS. The legal boundaries of each sanctuary remain as is. The GFNMS is responsible for developing and managing most sanctuary programs within this area, with the exception that the MBNMS is responsible for the Water Quality Protection Program.

The GFNMS Advisory Council was originally chartered in 2001, with seven voting members. It has recently been expanded to 12 voting members. The primary focus of the Council is to advise the Sanctuary Manager regarding the implementation of the sanctuary

management plan, in conjunction with the contiguous Monterey Bay and Cordell Bank National Marine Sanctuaries.

**Authority:** 16 U.S.C. 1431, et seq.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: November 1, 2005.

**Daniel J. Basta,**

*Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 05-22172 Filed 11-7-05; 8:45 am]

**BILLING CODE 3510-NK-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 051102288-5288-01; I.D. 102805B]

#### New Bedford Harbor Trustee Council; Proposed Funding for Natural Resource Restoration Projects

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** On behalf of the New Bedford Harbor Trustee Council (Council), NMFS, serving as the Administrative Trustee, publishes this notice to see comment on its proposed funding of six restoration projects for possible implementation through funding from the AVX Natural Resource Damages Trust Account (Trust Account). The Council, through an earlier published *Federal Register* notice requested grant applications for projects to restore natural resources that were injured by the release of hazardous substances and materials, including polychlorinated biphenyls (PCBs), in the New Bedford Harbor Environment (Harbor Environment). Nineteen grant applications for natural resource restoration projects were submitted for consideration by the Council. The Council is now seeking public comment on the preferred projects to assist in making a final decision on projects eligible for funding.

**DATES:** The Council will accept comments on the proposed restoration projects through 30 days after date of publication in the **Federal Register** and will hold a public hearing regarding the preliminary selection.

The public hearing will be held on November 16, 2005, at 7 p.m.

**ADDRESSES:** Please send your comments by email to: [NBHTC@noaa.gov](mailto:NBHTC@noaa.gov) or by

mail to: New Bedford Harbor Trustee Council, c/o National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930, Attn.: Jack Terrill.

Comments also may be sent via facsimile (fax) to 978-281-9301.

The public hearing will be held at the Days Inn, 500 Hathaway Road, New Bedford, MA.

**FOR FURTHER INFORMATION CONTACT:** Jack Terrill, Coordinator, 978-281-9136, fax 978-281-9301, or e-mail [Jack.Terrill@NOAA.GOV](mailto:Jack.Terrill@NOAA.GOV).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

New Bedford Harbor is located in southeastern Massachusetts at the mouth of the Acushnet River on Buzzards Bay. The Harbor and River are contaminated with high levels of hazardous substances and materials, including PCBs, and as a consequence are on the U.S. Environmental Protection Agency's (EPA) Superfund National Priorities List. This site is also listed by the Massachusetts Department of Environmental Protection as a priority Tier 1 disposal site.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund," 42 U.S.C. 9601 *et seq.*) designates as possible natural resource trustees Federal, state, or tribal authorities who represent the public interest in natural resources. The trustees are responsible for recovering funds through litigation or settlement for damages for natural resource injuries. CERCLA requires that any recovered monies be used to "restore, replace, or acquire the equivalent of" the natural resources that have been injured by a release of a hazardous substance.

For the New Bedford Harbor Superfund Site, there are three natural resource trustees on the Council representing the public interest in the affected natural resources. They are the Department of Commerce (DOC), the Department of the Interior, and the Commonwealth of Massachusetts. The Secretary of Commerce has delegated DOC trustee responsibility to NOAA; within NOAA, NMFS has responsibility for natural resource restoration at this site. The Secretary of the Interior has delegated trustee responsibility to the U.S. Fish and Wildlife Service. The Governor of Massachusetts has delegated trustee responsibility to the Secretary of Environmental Affairs.

To initiate restoration of the New Bedford Harbor Environment the Council previously issued two "Request(s) for Restoration Ideas" in October 1995 (60 FR 52164, October 5,

1995) (Round I) and August 1999 (64 FR 44505, August 16, 1999) (Round II). For each round, restoration ideas were received from the local communities, members of the public, academia and state and federal agencies. The 56 restoration ideas submitted under Round I were the basis for the alternatives listed in the Council's "Restoration Plan for the New Bedford Harbor Environment" (Restoration Plan) that was developed to guide the Council's restoration efforts. An environmental impact statement (EIS) was prepared in conjunction with the Restoration Plan to fulfill requirements of the National Environmental Policy Act. A record of decision, issued on September 22, 1998 for both the Restoration Plan and the EIS, provided for implementation of 11 Round I preferred restoration projects through funding provided by the Trust Account.

Thirty-five restoration ideas were submitted to the Council under Round II. Following procedures established in the Restoration Plan/EIS, an environmental assessment was prepared to evaluate the ideas. A public comment period/hearing was held and after consideration of the comments received, the Trustee Council decided to pursue implementation of 17 restoration ideas.

Rather than requesting restoration ideas, Round III solicited grant applications for natural resource restoration projects. This process has the advantage of allowing for faster implementation of projects by having applicants conduct the restoration projects after receiving direct funding through NOAA-issued grants. Further this process allows Trustee Council staff to continue implementation of Round I and Round II projects while still providing oversight to Round III projects.

The Round III solicitation appeared in the **Federal Register** (70 FR 5191, February 1, 2005), on the World Wide Web on GRANTS.GOV where a Federal Funding Opportunity (FFO) was published, and on the Trustee Council's webpage at [www.restorenbh.gov](http://www.restorenbh.gov). A total of 19 applications were received, but of these, four were rejected for not being related to the New Bedford Harbor restoration activities. Following procedures specified in the FFO, technical reviewers independently rated each application using five evaluation criteria which totalled 100 points. The applications were then ranked by the total score received. In addition to the technical review, a legal review was conducted to ensure the resulting projects were consistent with the requirements of CERCLA. The results of

the technical review was provided as a recommendation to the Trustee Council.

The FFO also established in Section V.B. Review and Selection, that the "Council will review the recommendation, accept or modify the recommendations, and make a preliminary determination of the projects it expects to undertake." Following this, the Council will initiate a 30-day comment period during which a public hearing would be held.

The Council is now seeking public review of the preferred projects and the proposed level of funding for each project. The public is also invited to attend a public hearing (see **DATES** and **ADDRESSES**) to provide oral comment based upon its review of the Trustees' preliminary recommendations.

At the conclusion of the comment period, the Council will consider the comments from the public and its advisors before making final decisions on the projects eligible for funding through the Trust Account.

Prior to final approval for funding, all selected projects require environmental review under applicable law and the submission of detailed scopes of work for Council review and approval. The release of funds may be conditioned on the results of project activity such as feasibility studies or assessments. In addition, implementation of the projects may be conditioned or delayed, and the funds therefore held in reserve, until more information becomes available or specific conditions are met. Funds held in reserve will continue to be held in the interest bearing Trust Account, administered by the Court Registry Investment System of the United States District Courts.

## II. The Preferred Project Ideas Recommended by the Trustee Council

Below is a description of the preferred projects proposed by the Council for potential implementation and funding. A draft environmental assessment has been prepared which provides further information on the preferred projects and a discussion of those ideas which are not considered preferred projects. The draft environmental assessment is available at the Council office (see **ADDRESSES**) or by accessing the Council website <http://www.restorenbh.gov>.

### 1. Acushnet River: "Headwaters to Bay" Land Conservation Project.

The project was composed of four separate subprojects which follow:

a. Acushnet River North (Requested amount: \$833,500; Council suggested amount: to be determined based upon the option chosen)

The project is located in East Freetown and Acushnet, MA at the headwaters of the Acushnet River. The alternative is to provide funding for the purchase of 88 acres (35.6 hectares) of undisturbed forest and wetlands west of Squam Brook and open the property to the public for passive recreational use. The parcel would also be protected through the attachment of a permanent conservation restriction to the deed. An additional 90 acres (36.4 hectares) east of Squam Brook would be protected through the purchase of a conservation restriction (CR) on the land. This action would prevent any future development of the land and preserve the existing agricultural use (cranberry production) in accordance with Best Management Practices. The eastern portion of the site would remain in private ownership with public access limited by the owners.

The Trustee Council has preliminarily approved the project for possible implementation pending public comment on its decision and the project. The Trustee Council is considering two options for the project: (1) Purchase and/or CR of the entire property or (2) purchase and/or CR of the western portion of the property only. The western portion is characterized by upland forest and wetlands leading down to an irrigation reservoir and Squam Brook. This second option would not purchase a CR on the eastern portion where there are active cranberry bog operations. The Council favors outright purchase, the second option, to provide greater protection to the headwaters since there is development pressure in this area. The Council is not as interested in the eastern portion unless the potential exists for restoring the natural condition of the wetlands.

b. Acushnet Saw Mill (Requested amount: \$1,651,500; Council suggested amount: to be determined based upon the option chosen)

This project is located in Acushnet, MA on the Acushnet River at a point where the freshwater portion ends and the tidal estuary begins. Funds would be provided for the fee simple purchase and conservation restriction of 21 acres (8.5 hectares) (consisting of field, forest, riverfront, freshwater pond and marsh) at the Acushnet Sawmill site from its present owners. The site is the location of the first dam on the Acushnet River that is being examined by the Trustee

Council and the Massachusetts Division of Marine Fisheries for modifications to restore anadromous fish passage under Round I. There are presently three buildings located on site as well as other structures associated with a once active sawmill and lumberyard. The applicant envisions restoring this site to a natural state through the removal of all the buildings and pavement covering approximately 4 acres (1.6 hectares). While this may be a long-term objective of the applicant, the only action to be taken at this time is the fee simple acquisition and conservation restriction. This action would prevent further development of the site.

The Trustee Council has preliminarily approved the project for possible implementation pending public comments on its decision and the project. The Trustee Council is considering two options for the project: (1) Purchase and/or CR of the entire property or (2) purchase and/or CR of the undeveloped portion of the property composed primarily of the eastern portion of the property. The concern over the developed portion is the amount of effort needed to restore the property to natural conditions and the various unknowns associated with the commercial use (e.g. sawmill operations) of the site. The Council has not made a decision on either option and invites public comment.

c. Marsh Island South (Requested amount: \$447,500; Council suggested amount: up to \$397,500)

The project is located in Fairhaven, MA in the Inner Harbor just south of the Route 195 crossing. Funds would be provided for the fee simple purchase and conservation restriction of a 7.68-acre (3.1-hectare) site on the southern portion of a peninsula known as Marsh Island in Fairhaven. (The remaining northern portion of Marsh Island was purchased using Trustee Council funds authorized in Round II. The Trustee Council is investigating the feasibility of restoring the salt marsh that was present before fill was placed on the island.) Prior to the purchase, funds would be provided for a title examination, fair market real estate appraisal, environmental site assessment and survey (if needed).

The Trustee Council has preliminarily approved the project for possible implementation subject to consideration of public comment. The Council is concerned about the two existing radio towers on site and will explore with the applicant options for their eventual removal. The Council does not believe the \$50,000 for "Restoration Planning and Design" is required since the

Council is already funding efforts on Marsh Island revolving around salt marsh restoration.

d. Viveiros Farm (Requested amount: \$1,270,000; Council suggested amount: up to \$1,270,000)

The project is located on the eastern side of Sconticut Neck, Fairhaven, MA. The overall project goal is to protect 127 acres (51.4 hectares) (comprised of farmland, salt marsh, freshwater wetlands and coastal beach) from future development through a combination of land protection methods. Funding would be used for a fee simple purchase on 40 acres (16.2 hectares) and a conservation restriction would be placed on 16 acres (6.5 hectares). The remaining 71 acres (28.3 hectares) would be acquired using an Agricultural Protection Restriction (APR) through the Massachusetts Department of Agricultural Resources (MDAR). The amount requested from the Trustee Council would be cost shared with \$2,050,000 coming from a North Atlantic Wetland Conservation Act oil spill grant, a MDAR grant and other municipal and private sources.

The Trustee Council has preliminarily approved the project for possible implementation subject to consideration of public comment. The Trustee Council would like clarification on how its funding would be used and for which components of the project. The Council is uncertain whether Council funding would be used to supplement MDAR funding for the APR. The Council is not interested in funding the APR and does not want agricultural use of the Council funded portion of the land.

2. *Apponagansett Bay Resource Restoration Feasibility Study (Requested amount: \$175,000; Council suggested amount: \$175,000)*

The project is located in Dartmouth, MA where the Padanaram Causeway crosses Apponagansett Bay. The project would investigate the feasibility of restoring a more natural tidal exchange between inner Apponagansett Bay, outer Apponagansett Bay and Buzzards Bay by installing additional openings in the Padanaram causeway. A feasibility study would be conducted to determine whether modifying the Padanaram causeway will increase tidal flushing with the inner Bay with the goal of restoring upstream degraded resources, including salt marsh and shellfish beds.

The feasibility study would consist of two phases. The first phase would consist of data collection and developing and running a hydrodynamic model. The results of the first phase will describe the

modifications to the causeway (such as installing additional culverts in the causeway) necessary to improve the resources of Apponagansett Bay and quantify the effects of such actions. The results of the first phase of the feasibility study would be presented to the Trustee Council. Should the results demonstrate that the project is worth the Council's continued support, the second phase of the feasibility study would be implemented. The second phase consists of the development of conceptual restoration plans that could be used to produce construction cost estimates and discuss regulatory approvals. Once this study is complete, the effects of additional openings in the causeway and the costs of implementing these changes will be known and a preferred restoration alternative will be developed. Funds for the further design, permitting and construction for such a project could be requested in a future Trustee Council funding round.

The Trustee Council has preliminarily chosen to include the study as a preferred study for possible funding and implementation after consideration of public comment. Funding would be provided for the initial feasibility investigation (data gathering and hydrodynamic modeling) and if the results are favorable, and the Trustee Council approves, funding would then be provided for the second phase to produce the conceptual plan.

3. *Restoration and Management of Tern Populations (Requested amount: \$833,336.15; Council suggested amount: \$833,336.15)*

The project is located on three islands in Buzzards Bay: Bird Island, Marion, Massachusetts; Ram Island, Mattapoisett, Massachusetts; and Penikese Island, Gosnold, Massachusetts. Roseate and common terns were injured while feeding on PCB-contaminated fish in the New Bedford Harbor Environment. The project goal is to rebuild and restore the population of roseate terns (a federally listed endangered species) and common terns through management or enhancement of nesting locations. The management aspect of this project involves moving other species, such as gulls, off the nesting areas and the daily monitoring of the terns that locate at the three islands. The project would also increase nesting habitat on Ram Island by removing an invasive plant *Phragmites australis* and filling an eroded section of the island.

This idea would extend the work being conducted under restoration funding from Rounds I and II for an additional period of three years. Round

I provided funding (\$266,400) to implement biological management and monitoring of tern colonies at Bird Island and Ram Island to restore populations of common terns and roseate terns. At Penikese Island, the project focused on reclaiming the island as a nesting site by managing gulls. Preliminary engineering work to stabilize Bird Island and toxicological analyses of tern eggs were also funded. Round II funding (\$853,600) continued the Round I management efforts at the three islands for an additional six years. Further work was done to assess what needed to be done to improve tern nesting habitat at Bird Island. Samples of unhatched tern eggs were collected for chemical analysis. Overall tern numbers on the islands have increased 59 percent since Trustee Council funding commenced.

The Trustee Council has preliminarily chosen to include the project as a preferred project for possible funding and implementation after consideration of public comment.

**4. River Road Restoration Project**  
(Requested amount: \$954,453; Council suggested amount: \$195,000 for wetland restoration components and signage)

The project is located at 246 River Road, New Bedford, MA and is composed of 2.5 acres (1.0 hectares) of city-owned land along the Acushnet River. The project would return a former industrial site to open space including restoring a 23,000-square foot (2,137-square meter) salt marsh on filled tideland and creating walking trails, interpretative signs, canoe/kayak launch, picnic area, play area, lawn and parking area. The Acushnet River along this location has been the subject of EPA and the U.S. Army Corps of Engineers recent cleanup activity involving the removal of bottom sediments and replanting along the shoreline.

The Trustee Council has preliminarily approved only the wetland restoration component of the project for possible implementation after consideration of public comment. The wetland restoration component will provide a direct benefit to injured natural resources.

**5. Round Hill Salt Marsh Restoration Project**  
(Requested amount: \$164,000; Council suggested amount: \$164,000)

The project is located at Round Hill Point, Dartmouth, MA. The project would conduct an investigation exploring the feasibility of restoring up to 24 acres (9.7 hectares) of coastal salt marsh through the removal of significant amounts of fill material and re-grading to historic marsh elevations

at the Round Hill Salt Marsh Restoration Site. A phased approach would be taken with Phase I involving a feasibility study and Phase II involving the conceptual design of the proposed project.

Under Phase I, a contractor would be hired to complete a full feasibility study including development of historical background/site history, base mapping (vegetation, topographic and bathymetric maps as necessary), hydrologic and alternatives analyses and cut and fill calculations. Upon completion of Phase I, the feasibility study would be presented to the Trustees for their consideration and approval. If approved by the Trustee Council and project partners, the second Phase (Phase II) would proceed with conceptual design.

Conceptual design would include development of conceptual alternatives and estimates of project costs. Completion of conceptual designs and cost estimates will be used to further develop the project with partners and regulatory authorities and aid in identifying a potential preferred alternative. Upon successful completion through Phase II with a conceptual design, the project team would re-apply for additional Trustee Council funding through future funding opportunities to complete final design, permitting and construction.

The Trustee Council has preliminarily chosen to include the project as a preferred study for possible funding and implementation after consideration of public comment. Funding would be provided for the initial feasibility study. If the results are favorable and the Trustee Council approves, funding would then be provided for the second phase to produce the conceptual design and alternatives analysis.

**6. West Island Beach**  
(Requested amount: \$162,000; Council suggested amount: \$162,000)

The project site is located at the entrance to West Island Beach in Fairhaven, MA. The project is intended to increase full tidal exchange to a tidally-restricted 8-acre (3.2-hectare) salt marsh by replacing an undersized culvert with a properly-sized culvert beneath the West Island Beach access road (Fir Street). Requested funds will be used to hire contractors to correctly size and design a culvert that will maximize tidal exchange with the West Island Beach marsh (without adversely affecting nearby properties), obtain all necessary permits and approvals, develop construction drawings, specifications and bid documents, construct the project, and install an

interpretive sign that recognizes the contribution of the New Bedford Harbor Trustee Council and the project partners.

The Trustee Council has preliminarily approved the idea for possible funding and implementation after consideration of public comment. The Council would be interested in pursuing an expansion of the project through the relocation of the beach parking lot and by removing the fill that was used to create the parking lot and will discuss this alternative with the Town of Fairhaven. Such a project change would require the approval of the Town.

**Classification**

This notice does not contain a collection-of-information requirement subject to the Paperwork Reduction Act. A draft environmental assessment has been prepared which provides further information on the preferred projects and a discussion of those ideas which are not considered preferred projects. The draft environmental assessment is available at the Council office (see **ADDRESSES**) or by accessing the Council's website at <http://www.restorenbh.gov>.

**Authority:** 42 U.S.C. 4321 *et seq.* and 9601 *et seq.*

Dated: November 1, 2005.

**Garry F. Mayer,**

*Acting Director, Office of Habitat Conservation, National Marine Fisheries Service.*

[FR Doc. 05-22237 Filed 11-7-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**Performance Review Board (PRB)**

**AGENCY:** United States Patent and Trademark Office.

**ACTION:** Notice; Update membership list of the United States Patent and Trademark Office Performance Review Board.

**SUMMARY:** In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), the United States Patent and Trademark Office announces the appointment of persons to serve as members of its Performance Review Board.

**ADDRESSES:** Director, Office of Human Resources, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**FOR FURTHER INFORMATION CONTACT:** James Matthews at (571) 272-6200.