

these agencies are authorized to act on behalf of the public under these authorities to protect and restore natural resources and resource services injured or lost as a result of discharges or releases of hazardous substances.

Paralleling the RI/FS process for the Site, the trustees have undertaken an assessment of the natural resource injuries and service losses resulting from releases of hazardous substances attributable to the Site. This assessment process has been aided and supported by Alcoa's cooperation under a Memorandum of Agreement between Alcoa and the Trustees, effective January 14, 1997. The Final DARP/EA released today has been developed under the cooperative assessment framework outlined in the MOA.

The Draft DARP/EA released for public review on September 28, 1999, described the assessment procedures being used to define the recreational fishing service losses, including to scale restoration actions, and the restoration actions preferred for use to compensate for those losses. The choice of preferred restoration actions was based on the anticipated benefits of such actions to both pier- or shore-based and boat-based anglers. None of the public comments received on the Draft DARP/EA raised any issue regarding the identified assessment procedures or the two restoration actions proposed for use to compensate for pier- or shore-based fishing losses. Significant public comments, however, were received opposing the restoration action proposed in the Draft DARP/EA to address the boat-based fishing losses. In considering these comments, the trustees found it necessary to revise that portion of the restoration plan. The Revised Draft DARP/EA released on May 12, 2000 summarized the public comments received, finalized the assessment procedures, finalized the selection of the restoration actions for the pier- or shore-based fishing losses, identified alternative restoration projects as preferred to address the remainder of the recreational fishing service losses, and explained the basis and rationale for that change. The trustees received no comments on the Revised Draft DARP/EA and, therefore, have selected the alternative restoration projects for inclusion in the restoration plan for the recreational fishing service losses. The Final DARP/EA summarizes the assessment of recreational fishing service losses, summarizes this restoration planning history and completes the final restoration plan to compensate for those losses.

The Final DARP/EA released today only addresses recreational fishing

service losses resulting from the fishing closure. Its release completes the first stage of the assessment and restoration planning process for the Site. Natural resource injuries or service losses of an ecological nature, including those due to early or anticipated future response actions, are being addressed as a separate, second stage of the assessment and restoration planning process. The Final DARP/EA for these ecological injuries and losses is also being released today and is the subject of a separate notice.

Dated: October 25, 2001.

**Jamison S. Hawkins,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 01-28096 Filed 11-8-01; 8:45 am]

**BILLING CODE 3510-JE-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Availability of Draft Restoration Plan and Environmental Services Superfund Site (Shore Realty)

**AGENCY:** National Oceanic and Atmospheric Administration, Department of Commerce.

**ACTION:** Notice of availability of Draft Restoration Plan and Environmental Assessment for the Applied Environmental Services Superfund Site (Shore Realty); request for comments.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) is providing notice of the availability of the Draft Restoration Plan and Environmental Assessment for the Applied Environmental Services (Shore Realty) Superfund Site for public review. NOAA, the United States Fish and Wildlife Service (USFWS), under the Department of the Interior, and the State of New York (New York), serve as natural resource trustees (Trustees) over natural resources adversely affected by releases of hazardous substances from the Shore Realty Superfund Site (the Site). NOAA, the lead administrative trustee, in consultation with the USFWS and New York, prepared this Draft Restoration Plan and Environmental Assessment (Draft RP/EA) which: (1) Explains the reasons for pursuing an off-site restoration project; (2) describes the various off-site restoration alternatives the Trustees considered; and (3) discusses the preferred restoration alternative which the Trustees have selected for implementation—the Bar Beach Lagoon project.

**DATES:** The Trustees will accept written comments on the Draft Restoration Plan and Environmental Assessment through December 10, 2001.

**ADDRESSES:** A copy of this Draft Restoration Plan and Environmental Assessment is available for review during office hours at the following locations: (1) Michelle Schimel, Town Clerk, Town of North Hempstead, 200 Plandome Road, Manhasset, NY 11030 (516-869-7646); (2) EPA Administrative Records Office, 290 Broadway, 18th Floor, New York, NY 10007 (212-637-4308); (3) Bryant Library, 2 Paper Mill Road, Roslyn, NY (516-621-2240); (4) Port Washington Library, Manorhaven Blvd., Port Washington (515-883-4400); (5) Lisa Holst, Long Island Sound Study Habitat Restoration, NYSDEC Bureau of Marine Resources, 205 North Belle Meade Road, Suite 1, East Setauket, NY (631-444-0469); (6) Steve Sanford, NYSDEC, Division of Fish, Wildlife, and Marine Resources, 625 Broadway, Albany, NY (518-402-8997). It is also available on NOAA's Web page (<http://response.restoration.noaa.gov/cpr/library/publications.html>) or through a link on USFWS's Web page (<http://contaminants.fws.gov/Issues/Restoration.cfm>). The Trustees will accept written comments via facsimile (fax) to Lisa Rosman, NOAA/CPRD, at 212-637-4207, or by e-mail at [lisa.rosman@noaa.gov](mailto:lisa.rosman@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Lisa Rosman, NOAA Coastal Resource Coordinator, 212-637-3259, fax 212-637-4207, e-mail at [lisa.rosman@noaa.gov](mailto:lisa.rosman@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Applied Environmental Services Superfund Site (the Site, or the Shore Realty site), is a 3.2 acre site located in Glenwood Landing, Nassau County, New York. Part of the Site is a peninsula surrounded by the waters of Motts Cove and Hempstead Harbor, located off of Long Island Sound. The Site was first used to store petroleum products in 1939. Subsequently, the Site was used for the distribution and storage of chemical solvents and the operation of a hazardous waste facility. Beginning in 1974, numerous organic chemical spills were reported to have occurred, including a 1978 spill of about 3,000 gallons of toluene. Several hazardous substances and materials, as defined by the United States Environmental Protection Agency (USEPA) and listed at 40 CFR 302.4, in accordance with section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act

(CERCLA), contaminated the soil, groundwater, surface water, sediment, and air of the Site, including toluene, xylene, ethylbenzene, naphthalene, phthalates, and polychlorinated biphenyls (PCBs). See 40 CFR 302.4 and 42 U.S.C. 9602. In accordance with section 105 of CERCLA, the USEPA placed the Site on the National Priorities List in June, 1986. See 42 U.S.C.A. 9605(8)(B) and 40 CFR part 300, Appendix B.

In 1991, the USEPA issued a Record of Decision (ROD) for the Site. The selected remedy for the Site included: active venting, by vacuum extraction, of contaminated soils; collection of contaminated groundwater and treatment by air-stripping; re-injection of treated groundwater, nutrients, and a chemical source of oxygen to stimulate natural remediation of groundwater and saturated soils; and treatment of contaminant-laden vapors. The treatment plant has been operating since July 1995 and will continue operation until site sampling data and analysis show that the performance standards set forth in the ROD are met. The performance standards include: reduction of concentrations of benzene, methylene chloride, and organic contaminants in soils to conformity with applicable state and federal standards; reduction of contaminants in groundwater to levels equal to or less than the groundwater standards for the State of New York; indirect remediation of Site sediments by treating contamination in other Site media (soils and groundwater), which serve as the source of contaminants to the sediments; elimination of exceedance of ambient air standards over the mudflats of the Site; and elimination of sheen on surface waters to comply with applicable surface water standards.

Under CERCLA, owners and operators of facilities where hazardous wastes were located, and those who generated or transported the hazardous substances, are liable for response costs and damages for "injury to, destruction of, or loss of natural resources," including the reasonable costs of assessing those natural resource damages (42 U.S.C. 9607(a)). The President of the United States, and the Governor of each State whose resources have been affected by releases from a Site, have the authority to "act on behalf of the public as trustees of such natural resources to recover such damages." (See 42 U.S.C. 9607(F)(1).) In accordance with CERCLA, the President delegated this trustee authority to the United States Department of Commerce (DOC), and the United States Department of the Interior (DOI) ( 42

U.S.C. 9607(f)(2)). The Secretary of Commerce delegated DOC trustee authority to the National Oceanic and Atmospheric Administration (NOAA). The Secretary of the Interior has delegated DOI trustee authority to the U.S. Fish and Wildlife Service (USFWS).

The Applied Environmental Services Superfund Site is located in Glenwood Landing, Nassau County, New York. Therefore, the federal trustees, NOAA and the USFWS, share trustee authority with the State of New York. The Governor of New York has delegated trustee authority to the New York State Department of Environmental Conservation (NYSDEC).

NYSDEC, NOAA, and the USFWS cooperatively serve as the natural resource trustees (the Trustees) for the natural resources affected by releases of hazardous substances at, or from, the Site. The Trustees are responsible for recovering damages for "injury to, loss of, or destruction of natural resources." (See 42 U.S.C. 9607 (f)(1).) The Trustees must use any recovered funds to "restore, replace, or acquire the equivalent of," the natural resources that have been injured by a release of a hazardous substance (42 U.S.C. 9607 (f)(1)). Approximately 2 to 3 acres of mudflat and saltmarsh cordgrass (*Spartina alterniflora*) were severely impacted as a result of hazardous releases at and from the Site. The Trustees are in the process of selecting a restoration project to address natural resources injured and ecological services lost due to the release of hazardous substances from the Site.

In 1992, the United States, the State of New York, and the Performing Parties Group (an entity composed of cooperating past and current owners, operators and generators who share liability for the releases from the Site, hereinafter referred to as "the PPG") entered into a Consent Judgment settling the liability of the responsible parties under CERCLA for response costs, natural resource damages, and the costs of assessing those damages related to the Site.

Section X. of the 1992 Consent Judgment specifically requires the PPG to restore saltmarsh in the mudflats to the east and south of the Site, in Hempstead Harbor and Motts Cove, after it is determined that " \* \* \* discharges to the shoreline and mud flats adjacent to the Site have been sufficiently abated by the remedial program." The Consent Judgment specifies that the PPG must plant saltmarsh grasses (e.g., *Spartina alterniflora*, *S. patens*, and/or *Distichlis spicata*) in these areas and may also need to regrade the sediments. If the

initial plantings are unsuccessful, the PPG would be required to plant more halophytic grasses to ensure that the vegetation is sustainable and able to support biota, including marine and/or estuarine fish and invertebrate species. The Consent Judgment does not require the PPG to physically alter the mudflats (e.g., alter the elevation) to achieve optimal survival of the saltmarsh grasses over the broadest area. The PPG's monetary liability for performance of the on-site restoration is limited to \$50,000. The PPG is also required to remit to the Trustees the sum of \$60,000 for "the design and implementation of a post-planting monitoring program," to determine the functional success of the wetlands restoration.

The PPG also paid \$50,000 to the Federal Trustees to compensate for "past injury to, destruction of, or loss of, natural resources," for the said purpose of, "restoring, replacing or acquiring the equivalent of the affected natural resources," at an off-Site location. This \$50,000 will be used for another off-Site enhancement project which will be addressed in a separate document.

The Trustees have determined, and the PPG agrees, that the restoration actions due to be implemented in areas of the Hempstead Harbor inlet and Motts Cove adjacent to the Site, should be relocated off-Site. The parties have concerns regarding the potential success of on-Site restoration, which are unrelated to historical releases of hazardous substances from the Site.

Two major factors have led to this determination. First, there are a number of nearby sources of pollution and debris that impact the original on-Site restoration areas. Storm water runoff, from storm water culverts draining the adjacent county road and upgradient areas east of the Site, directly impacts the Hempstead Harbor inlet (the inlet) and Motts Cove. The inlet is a natural collection point for trash and other floating debris in the Harbor. The inlet is not protected from wave action caused by marine traffic and storm events, and is also vulnerable to erosion events. The Motts Cove marsh area is adjacent to a boat marina, and is also a natural collection point for trash and other debris of various sizes, some of which is not readily removable (e.g., large concrete-based dock). The inlet and Motts Cove are subject to trespassing and potential incidental dumping. Second, and of greatest concern to the Trustees and the PPG, the current water levels in the areas of Hempstead Harbor and Motts Cove adjoining the Site do not provide optimum conditions for the long-term survival of a saltmarsh community.

Water depths on the Hempstead Harbor side (in the inlet) exceed those required for successful growth of *Spartina* for a substantial part of the area originally set aside for restoration. All of these factors would reduce the efficacy and acreage of *S. alterniflora* marsh ultimately restored in the areas. Likewise, the ecological services provided from such a restoration would be less than, or substantially different from, those originally envisioned.

Therefore, the Trustees have decided to seek an alternate restoration project/location to ensure that natural resources and the ecological services they provide are satisfactorily restored. This decision was made for the reasons discussed above, the restrictions set forth in Paragraph X.1. of the Consent Judgment, and the added costs to implement the activities (i.e., debris removal, excavation, fill to grade etc.) that would be required for successful on-Site restoration, but are not required under the terms of the original Consent Judgment. As noted above, under the terms of the 1992 Consent Judgment the PPG is not required to alter the elevation of the mudflats in order to make the area more suitable for salt marsh grasses, and the costs of altering the elevation would far exceed the PPG's \$50,000 liability limit.

In lieu of conducting the restoration actions called for in the Consent Judgment, the Trustees and the PPG have explored other restoration options available in the Hempstead Harbor/Town of North Hempstead area. These options have a high probability of success and would produce ecological benefits at least equivalent to those derived from the restoration project presently required in the Consent Judgment. The PPG has indicated its desire to perform an alternative off-Site project for a cost not to exceed \$50,000 (the maximum liability specified in the original Consent Judgment). In addition, the PPG participated in the identification and review of potential restoration alternatives, and has agreed to fund the design costs for the preferred restoration project. The PPG has also agreed to replace a deteriorating bulkhead at the Site in order to further remediation efforts.

## II. Restoration Alternatives Considered and the Preferred Restoration Project Selected by the Natural Resource Trustees

The Trustees identified three desired characteristics for potential projects: (1) The habitat proposed to be restored must be similar in type to the habitat that was impacted, and potentially provide similar services; (2) the project

must be in the same watershed as the impacted wetland; and (3) the project must provide long-term or perpetual benefits to the impacted resources, including fish and wildlife. Thirteen alternative restoration proposals were considered, including; a No Action alternative, the on-Site in-kind restoration specified in the 1992 Consent Judgment, and 11 off-Site, in-kind projects. The trustees comparatively evaluated each of the proposed alternatives based on seven additional selection criteria: effectiveness, protectiveness, technical feasibility, cross-benefits, collateral effects, consistency, and cost considerations. Details of the alternative analysis can be found in section 2.2.2.2. of the Draft Restoration Plan and Environmental Assessment.

Below is a description of the preferred restoration alternative selected by the Trustees—the Bar Beach Lagoon project. If this proposed project becomes final, the Trustees and the PPG will modify the 1992 Consent Judgment to specify that this off-Site project will be conducted in lieu of the on-Site restoration project specified in the 1992 Consent Judgment.

The Bar Beach Lagoon project area is located in the Town of North Hempstead, on municipal land. The proposed project area is located across from the Site on the western shore of Hempstead Harbor and immediately east of West Shore Road in Port Washington, New York. The proposed restoration site is a 5 +/- acre tidal cove situated within Bar Beach, a park owned by the Town of North Hempstead. The proposed project area consists of a mosaic of intertidal mudflat, sandflat, patchy low saltmarsh dominated by smooth cordgrass, and shellfish beds dominated by ribbed mussel and American oyster. Localized habitat loss and disturbances have degraded the habitat and adversely affected the full functioning of the saltmarsh.

The Bar Beach Lagoon restoration project will consist of several components. Restoration tasks, listed in order of decreasing significance as determined by the Trustees, will likely include: saltmarsh restoration, coastal shoreline restoration, phragmites removal or control, and erosion control through the retrofitting of a culvert. Priorities may change upon input from the contractor selected to design and oversee the project.

The Bar Beach Lagoon project would improve fish, bird, and shellfish habitat, enhance the detrital export functioning of this tidal community, and provide an opportunity for the public to enjoy this ecosystem due to its proximity to the

North Hempstead Trail. Expected improvements include increased vegetative cover derived directly from plantings (approximately < 0.5 acre) and indirectly from site enhancement. The latter could augment the density and coverage of the existing saltmarsh (approximately 2 acres). Amelioration of substrate conditions (i.e., reduced erosion, reduced freshwater input) should increase the spatial coverage and/or density of *Spartina* over current conditions by fostering natural colonization. Habitat quality will improve due to increases in vegetative cover and structural complexity, thereby benefitting macroinvertebrates, fish and birds. Details of the project design can be found in section 3.2 of the Draft Restoration Plan and Environmental Assessment.

The PPG would be primarily responsible for implementing the project. As noted above, the PPG's liability under the terms of the Consent Judgment is limited to \$50,000. However, the PPG has recently agreed to pay for the restoration design for the Bar Beach Lagoon project, in addition to their \$50,000 liability. The Town of North Hempstead will provide additional funding, goods and services. The Town of North Hempstead recently received a NOAA/NMFS Community Outreach grant to partner with the Trustees and the PPG on the Bar Beach Lagoon restoration project. The additional funding and services the Town of North Hempstead will provide are valued at approximately \$59,896. The Long Island Wetland Restoration Initiative Group may also contribute to the project by assisting with the mechanical or physical removal of phragmites, also known as common reed (an invasive and undesirable plant) *pro bono*.

The Trustees are seeking public comment on their: (1) Decision to shift from an on-Site, in-kind restoration project to an off-Site, in-kind restoration project, (2) evaluation of various restoration alternatives, and (3) selection of the Bar Beach Lagoon project as the preferred restoration alternative. All comments received on the Draft Plan will be considered and a response will be provided either through revision of this Draft Plan and incorporation into the Final Restoration Plan or by letter to the commentor once the comment period has ended. A Final Restoration Plan will then be published.

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

Dated: November 1, 2001.

**Jamison S. Hawkins,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 01-28216 Filed 11-8-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 110201B]

#### Caribbean Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Caribbean Fishery Management Council (Council) will hold meetings.

**DATES:** The meetings will be held on November 28-29, 2001. The Council will convene on Wednesday, November 28, 2001, from 8:30 a.m. to 5:30 p.m. through Thursday, November 29, 2001, from 9 a.m. to 5 p.m., approximately.

**ADDRESSES:** The meetings will be held at the Wyndham Sugar Bay Beach Club and Resort, St. Thomas, USVI.

**FOR FURTHER INFORMATION CONTACT:** Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-2577; telephone: (787) 766-5926.

**SUPPLEMENTARY INFORMATION:** The Council will hold its 106th regular public meeting to discuss the items contained in the following agenda:

- Call to Order
- Adoption of Agenda
- Consideration of 105th Council Meeting Summary Minutes
- Executive Director's Report
- Queen Conch Fisheries/Fishery Management Plan (QCFMP)
- Honduras Fisheries - Mr. Luis Morales
- U.S. Caribbean Data Update - Mrs. Monica Valle
- QCFMP Amendment 2/
- Supplementary Environmental Impact Statement/UPDATE - E.V.E. Joy & J. Weaver
- Reefish Fisheries
- U.S. Caribbean Data Update - Dr. Nancie Cummings
- Marine Conservation District Update
- Dr. Rick Nemeth
- Draft Amendment 4 to the Reefish FMP
- Permit System
- Puerto Rico - R. Martinez

-U.S. Virgin Islands - B. Kojis  
 -Federal Government - B. Sutter  
 Administrative Committee Meeting  
 Dolphin/Wahoo FMP  
 -Council Consideration of Comments  
 Received on Draft Environmental Impact Statement

-Final Action - Submission to the Secretary  
 Essential Fish Habitat Option Paper - MRAG Americas  
 Enforcement  
 -Federal Government  
 -Puerto Rico  
 -U.S. Virgin Islands  
 Recommendations by the Administrative Committee  
 Scientific and Statistical Committee (SSC)/Advisory Panel (AP)/Habitat AP Membership  
 Meetings Attended by Council Members and Staff  
 -International Commission for the Conservation of Atlantic Tunas (ICCAT) Committee Meeting -Gulf and Caribbean Fishery Institute (GCFI) Meeting  
 -Marine Fisheries Advisory Committee (MAFAC) Meeting -Western Central Atlantic Fishery Commission (WECAFC) Meeting  
 Other Business  
 Next Council Meeting  
 Meetings Attended by Council Members and Staff  
 Other Business  
 Next Council Meeting  
 The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/or other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-2577; telephone: (787) 766-5926, at least 5 days prior to the meeting date.

Dated: November 2, 2001.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 01-28237 Filed 11-8-01; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 110501D]

#### Gulf of Mexico Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The NOAA Law Enforcement Office and the Gulf of Mexico Fishery Management Council (Council) will host a workshop on violations of closed shrimping areas in south Florida.

**DATES:** The joint NOAA Enforcement and Council meeting will be held November 28, 2001, from 1 p.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the Bayou La Batre Community Center, Padgett Switch Road, Bayou La Batre, AL 36509.

*Council address:* Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

**FOR FURTHER INFORMATION CONTACT:** Dr. Richard L. Leard, Senior Fishery Biologist; telephone: 813-228-2815.

**SUPPLEMENTARY INFORMATION:** The NOAA Law Enforcement Office and the Council will host a workshop for shrimp fishermen and dealers/processors to review the history of violations in the Tortugas Shrimp Closure and Southwest Florida Seasonal Trawl Closure. The primary purpose of the workshop is to advise industry representatives that violations have increased in these closed areas and other closed areas in state waters and to discuss the penalties that are levied for such violations. NOAA Enforcement representatives and perhaps other enforcement officers will review planned enforcement efforts for the upcoming season that generally begins in December. These officers as well as a Council staff representative will also be available to answer any questions regarding enforcement or management efforts.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those