

of entry, depending upon the exporter in question.

This affirmative final circumvention determination is in accordance with section 781(a)

of the Act and 19 CFR 351.225(g).

Dated: May 30, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Palmer Barge Superfund Site in Jefferson County, TX; Settlement Agreement and Draft Restoration Plan and Environmental Assessment

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of a proposed Settlement Agreement and Draft Restoration Plan and Environmental Assessment for ecological injuries and service losses associated with the Palmer Barge Superfund Site in Jefferson County, Texas and of a 30-day period for public comment on the Settlement Agreement and the Draft Restoration Plan and Environmental Assessment beginning July 5, 2007.

**SUMMARY:** Pursuant to 43 CFR 11.32 and 11.81-.82, notice is hereby given that a proposed Settlement Agreement in resolution of the Natural Resource Trustees' claim for natural resource damages (Agreement) associated with the Palmer Barge Superfund Site and the "Draft Restoration Plan and Environmental Assessment for the Palmer Barge Waste Site, Port Arthur, Jefferson County, Texas" (Draft DARP/EA) are available for public review and comment. This document has been approved by the state and federal Natural Resource Trustee agencies to address natural resource injuries and resource services losses of an ecological nature attributable to releases of hazardous substances from the Palmer Barge Superfund Site (Site). The natural resource trustees include: The National Oceanic and Atmospheric Administration (NOAA), Commerce; United States Department of the Interior (DOI); Texas Parks and Wildlife Department (TPWD); Texas General Land Office (GLO); and Texas Commission on Environmental Quality (TCEQ). The Natural Resource Trustees

have reached a proposed agreement with E.I. du Pont de Nemours and Company, Texaco Inc., Ashland Inc. and Kirby Inland Marine to resolve their liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for damages to natural resources resulting from releases of hazardous substances from the Site. This draft DARP/EA presents the Trustees' assessment of these natural resource injuries and service losses attributable to the Site, and the plan for restoring ecological resources and services to compensate for those injuries and losses. The Trustees will consider input received during the public comment period before finalizing the DARP/EA.

**FOR FURTHER INFORMATION:** Comments must be submitted in writing on or before thirty (30) days from the publication of this notice to Richard Seiler of the TCEQ or Jessica White of NOAA at the addresses listed in the previous paragraph. The Trustees will consider all written comments prior to finalizing the DARP/EA.

To receive a copy of the proposed Agreement, the Draft DARP/EA, or any other related information, interested members of the public are invited to contact Richard Seiler at the Texas Commission on Environmental Quality, Remediation Division MC 225, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2523 (phone) or (512) 239-4814 (fax), or contact Jessica White of NOAA at NOAA c/o US EPA, 1445 Ross Avenue, MC 6SF\T, Dallas, TX 75202, (214) 665-2217 (phone) or (214) 665-6460 (fax).

**SUPPLEMENTARY INFORMATION:** The Site consists of approximately 17 acres located 4.5 miles northeast of the city of Port Arthur in Jefferson County along Ferry (or Old Yacht Club) Road on Pleasure Islet, approximately one-half mile southwest of the confluence of the Neches River and the Sabine-Neches Ship Channel. The Site is bordered by the State Marine Superfund site to the south, Sabine Lake to the east, Old Yacht Club Road to the West, and vacant property to the north.

The Site was originally used as a municipal landfill for the city of Port Arthur, which operated the landfill from 1956 until the mid-1980s. In 1982, the city of Port Arthur sold the property and it was subsequently used as a marine barge cleaning operation (Palmer Barge Marine) from 1982 until 1997. Operations performed at the site included cleaning, degassing, maintenance and inspection of barges and marine equipment. A flare was located on-site to burn excess gasses and

liquids produced during the facility operations, in addition to multiple above-ground storage tanks. In July 1997, Palmer Barge Line was purchased and operations on the property ceased. Currently the site is owned by a private individual who is redeveloping it as an industrial property.

In 1996, the TCEQ (then known as the Texas Natural Resource Conservation Commission, or TNRCC) conducted a multi-media inspection of the Site which identified large areas of contamination on Site soils. These findings triggered further investigation by both the U.S. Environmental Protection Agency (EPA) and TCEQ. In 1996, an expanded site inspection (ESI) was performed for the purpose of evaluating the nature and extent of on-site and off-site contamination and evaluating the environmental fate of the contaminants. This evaluation indicated the presence of both organic and inorganic contaminants in Site soils and in the shallow near-shore sediments of Sabine Lake. Semi-volatile contaminants of concern identified at the Site include acenaphthylene, anthracene, benzo(a)pyrene, chrysene and fluoranthene. There were also numerous pesticides and polychlorinated bi-phenyls detected in the Site soil samples. Elevated levels of inorganic contaminants included chromium, copper, lead, and zinc.

The Site was placed on the National Priorities List (Superfund) on July 27, 2000 and the EPA authorized an emergency removal action for reduction of on-site contamination in August 2000. Removal activities included removal of wastes, wastewater treatment, and sludge stabilization. A Remedial Investigation (RI) was performed at the Site pursuant to an Administrative Order on Consent signed by the EPA and the Settling Parties in 2002, and based on information developed in the RI, a Record of Decision (ROD) for the Site was signed on September 30, 2005. The ROD requires the excavation of approximately 1,204 cubic yards of soil which exceeded risk-based levels, backfilling of excavated areas with clean soil, and off-site disposal of excavated soils at a permitted disposal facility. Existing above-ground storage tanks will be demolished and removed. As planned, and when implemented, the remedy selected to address the contamination at the Site is expected to protect natural resources in the vicinity of the Site from further or future injury.

NOAA, DOI, TPWD, GLO and TCEQ are designated Natural Resource Trustees under Section 107(f) of CERCLA, Section 311 of the Federal

Water Pollution and Control Act (FWPCA), 33 U.S.C. Section 1321, and other applicable federal or state laws, including Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR 300.600–300.615. As trustees, these agencies are authorized to act on behalf of the public under these authorities to protect and restore natural resources injured or lost as a result of discharges or releases of hazardous substances.

Paralleling the remedial investigations at the Site, the Trustees worked cooperatively with E.I. du Pont de Nemours and Company, Texaco Inc., Ashland Inc, and Kirby Inland Marine, L.P., to evaluate natural resource injuries and ecological service losses resulting from releases of hazardous substances to areas at or adjacent to the Site. The Trustees' evaluation focused on natural resource injuries or service losses of an ecological nature caused by hazardous substances at the Site based on known contamination and anticipated remedial actions. As a result of this assessment, the Trustees determined that hazardous substances (including semi-volatile organic compounds, poly-cyclic aromatic hydrocarbons, poly-chlorinated biphenyls, pesticides, and metals) were available in the sediments and injury to ecological habitat of approximately 7.55 acres had occurred.

The Draft DARP/EA identifies the information and methods used to define the natural resource injuries and losses of an ecological nature, including the scale of restoration actions, and identifies the restoration actions which are preferred to restore, replace or acquire resources or services equivalent to those lost.

Dated: May 29, 2007.

**Brian Julius,**

*Deputy Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[XRIN: 0648–XA65]

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a three-day Council meeting, on June 19–21, 2007, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Tuesday, June 19 beginning at 8:30 a.m., and Wednesday and Thursday, June 20–21, beginning at 8 a.m. each day.

**ADDRESSES:** The meeting will be held at the Eastland Park Hotel, 157 High Street, Portland, ME 04101; telephone: (207) 775–5411.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council (NEFMC); telephone: (978) 465–0492.

#### SUPPLEMENTARY INFORMATION:

#### Tuesday, June 19, 2007

Following introductions, the Council will hear a series of brief reports from the Council Chairman and Executive Director, the NOAA Northeast Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NOAA Enforcement, and the Atlantic States Marine Fisheries Commission. Following these reports, the Council will be asked to comment on procedures related to the Magnuson-Stevens Act requirement for a referendum on any individual fishing quota program under consideration by the Council. Following consultation with all eight Fishery Management Councils, NOAA Fisheries will publish a proposed rule to address the referendum process, voter eligibility and related issues. The Enforcement Committee will ask for approval of recommendations concerning the use of “safe harbors” and requiring a declaration before transiting closed areas. During the afternoon session, the Council plans to approve final action on phase one of Essential Fish Habitat (EFH) Omnibus Amendment 2. This part of the overall amendment includes improved EFH designations for the species under Council management; new and/or modified HAPC designations; an evaluation of prey species for NEFMC-managed species and life stages; and an evaluation and description of the impacts of non-fishing activities on EFH, including conservation and enhancement activities. The Sector Committee will seek approval of terms of reference as it

continues to work on processes and policies that will govern the use of sectors in NEFMC fishery management plans (FMPs). The Council may determine if they will develop a policy only concerning sectors or move forward with an omnibus amendment that would apply to sectors in all fishery management plans.

#### Wednesday, June 20, 2007

The Council will review public comments and intends to approve a Draft Supplemental Environmental Impact Statement and final management measures for Amendment 11 to the Sea Scallop Fishery Management Plan. It also will review and may approve Framework Adjustment 20 to the FMP, an action to extend measures implemented by emergency action to prevent overfishing through the end of fishing year 2007. During this afternoon session, the Council will discuss and possibly approve a request to NOAA Fisheries for at-sea observer coverage on all at-sea processor vessels.

#### Thursday, June 21, 2007

The Council's Research Steering Committee Chairman will report on the committee's recommendations concerning the use of information provided in several cooperative research final reports. This will be followed by a discussion of other issues related to cooperative research, including comments on a peer review of a pilot study fleet cooperative research project, experimental fisheries permit policies and issues related to data archiving and access in the context of making cooperative research results available. This discussion will be followed by an opportunity for the public to briefly address items that are relevant to Council business but not otherwise listed on the agenda. The Groundfish Committee will report on its efforts to develop Amendment 16 to the Northeast Multispecies FMP. The Council will review and approve recommendations for management alternatives in amendment. It may also approve standards to be used by the Regional Administrator to allow the use of additional gear in the Eastern U.S. Canada Haddock Special Access Program and trawl gear Category B (regular) days-at-sea program, as well as a number of recently received sector proposals. The Standardized Bycatch Reporting Methodology (SBRM) Committee will review and ask for approval of the final SBRM Amendment during the afternoon session. This action would modify all Council fishery management plans (FMPs) to include SBRM provisions. Lastly, the Council