

March 10, 2006 – Revised 5/1/06 to provide
Draft responses to stakeholder management questions
Herring River TechCom synopsis

Notes from the chair, these are not minutes

Anticipated financial liability for harm caused by the project

The following subcommittees were formed. Subcommittees will catalogue issues within their topic, prioritizing issues as necessary to accommodate restoration protocol and report back (verbal and written synopsis) to the full TechCom at our next meeting.

Cataloguing issues on these specific topics will contribute to identifying missing pieces that may require outside sources and to begin collecting the basic components of a Comprehensive Incremental Restoration Plan.

Please contact each other and establish a means of working together, be it electronically, by voice or in person. John R., Hillary and Joel will need to contact me regarding their choices. Anyone who has been misplaced on these Subcommittees, please contact me at once. Thank you-Gordon

This document has been revised on 5/1/06 to add all of the responses to stakeholder Management Questions as developed during the 4/25/06 meeting. This draft has not been approved by the HRTC.

Respectfully submitted, Bob Hubby

1. Restoration impact issues (roads; culverts; private property) John P, Jack, Gordon, Joel

22 - What will be done to monitor the integrity of The Gut after restoration?

The Gut barrier beach will be monitored using aerial photography and ground-based surveys (elevational profiles) along five pre-established transects that run from Harbor to Bay. Importantly, "restoration" will be a long, multi-year incremental process and not a single event; monitor will occur regularly throughout this process.

23 - If The Gut were to be eroded by the restoration, what impact would that have on continuing restoration?

According to coastal geologist who has studied The Gut, the premise of this question is false. The stability of The Gut is not and never has been affected by tidal flow into or out of Herring River. Barrier-beach over wash is always potential and part of normal barrier retreat with sea-level rise. In short, Gut erosion (i.e. breach) due to tidal restoration is not a reasonable scenario.

24 - Who will monitor sediment changes in the harbor?

CCNS Natural Resource staff, in cooperation with the Wellfleet Shellfish Department, already has baseline data for sediment below the dike and on aquaculture grants at Egg Island, Power's Landing, Mayo Beach and the Town propagation bed. This monitoring will continue.

28 - Can undesirable effects of restoration at the Country Club be resolved?

Yes, in fact new (albeit preliminary, March 2006) design work by golf architects shows that the golf course can be largely relocated outside the coastal flood plain, onto upland owned by the CYCC. Assuming regulatory agencies approve the design, this would allow almost full salt-marsh restoration in the Mill Creek portion of the Herring River estuary.

31 - What is the proposed plan for the level of restoration?

At this point, the Technical Committee is using a maximum spring-high-tide elevation of 6.0 feet above mean sea level as a working goal. This is the uphill extent of natural salt marsh seaward of

the Chequesset Neck Dike, and allowing spring tides to flood to this elevation above the structure should allow full restoration, if that option is ultimately acceptable; however, the tentative plan is for tides to be restored in stages over years, with regular monitoring, to allow adaptive management based on observed results, both environmental and social.

32 - How large an area would this take place over?

The original estuary comprised 1100 acres and, at this point, there appears no reason to assume that any of this wetland must be excluded from the restoration project; however, as mentioned under question 31 above, the project would move forward incrementally, and stop if significant problems developed.

2. **Vegetation management issues: (identifying, cutting, processing) Stephen; Carl; Gordon, Joel.**

3. **Permitting issues (Federal, State, Local) John P., Tim**

2 - Will the agreement to initiate restoration between the Town and the CCNS be subject to Town Meeting approval or referendum?

The agreement will be subject to Town Meeting approval.

3 - Have all federal permits been identified?

Refer to Appendix A – Draft Report of the Permitting Sub-committee entitled Overview of Federal, State, and Local Environmental Permitting, dated 4/25/06

4 - Have all state permits been identified?

Refer to Appendix A – Draft Report of the Permitting Sub-committee entitled Overview of Federal, State, and Local Environmental Permitting, dated 4/25/06

5 - Have all local permits been identified?

Refer to Appendix A – Draft Report of the Permitting Sub-committee entitled Overview of Federal, State, and Local Environmental Permitting, dated 4/25/06

6 - What is the procedure to include all permitting?

Refer to Appendix A – Draft Report of the Permitting Sub-committee entitled Overview of Federal, State, and Local Environmental Permitting, dated 4/25/06

4. **Grants and cost issues Tim, John P., Stephen**

1 – Have expenses and financing for culverts at Pole Dike & Old County Roads been identified, if not when will these be addressed?

The Technical Consultant hired to complete the incremental restoration management plan shall do budgeting for expenses and financing for culverts.

15 – When will a fund be established to mitigate any damage caused by restoration to private property owners, businesses and shell fishermen?

Negotiations are currently in progress to address private property landholders affected by the restoration and will be completed before the restoration process is started. The incremental restoration process will be monitored – see question 22.

17 – Where will the funds come from?

Refer to Appendix B- Herring River Restoration Project, Preliminary Budget (for planning purposes only) dated 4/25/06

19 - When will a financial plan covering costs, funding, and assignment of liability be drafted?

Refer to Appendix B- Herring River Restoration Project, Preliminary Budget (for planning purposes only) dated 4/25/06

27 - What will be done to compensate private individuals for damages resulting from restoration?

Negotiations are currently in progress to address landholders affected by the restoration and will be completed before the restoration process is started.

29 - How will the costs of restoration affect the tax rate?

Refer to Appendix B- Herring River Restoration Project, Preliminary Budget (for planning purposes only) dated 4/25/06. All costs are expected to be funded by the Restoration project budget and thus will not affect the Town tax rate.

5. Stakeholder issues John R., Bob

All stakeholder questions from the Full Report of the Herring River Technical Committee dated January 3, 2006 pages 32 and 33 have been distributed to the various subcommittees as applicable. A new subcommittee 10 is suggested to deal with the questions of Administration and Oversight to address questions 7,8,9,10,11,12,16, 18, 20, and 30. The complete list of Management Questions from the report has been included for convenient reference. The subcommittee responses to each of the Management Questions have now been added to this report in *bold italics*.

6. Migration issues (all species) Carl, Andy, Diane

21 - Who would facilitate the emigration of fresh water aquatic life away from the restored area and when would it occur?

The restoration will be accomplished incrementally with inclusion of habitat islands to facilitate emigration

7. Education issues (outreach, communication) Bob, John P.

8. Environmental monitoring issues Andy, Diane, Gordon, Carl

14 – When will an environmental impact study be performed?

EIS will be performed by CCNS

26 – Does an environmental impact study need to be done?

Yes see question 14

9. Regional salt marsh restoration histories Tim, Stephen, Gordon

10. Administration and oversight

The Administration and Oversight Subcommittee of the HRTC meet from 2 to 3 pm on April 20th. John Portnoy, John Riehl, Gordon Peabody, Bob Hubby and Rex Peterson were in attendance. Hillary Greenberg was excused because of a previous commitment.

The following Administration and Oversight is proposed for consideration of the HRTC.

Following the successful pattern used at Hatches Harbor in Provincetown, we recommend that a **Herring River Oversight Committee** be formed to administer the oversight of the Herring River Restoration project. The scope and authority of this committee is to be governed by a second Memorandum of Understanding approved by the Town of Wellfleet Board of Selectmen (BOS). The committee shall include representatives from all parties concerned with the project; specifically representatives from the HR Technical Committee, The HR Stakeholders Group, The National Park Service, The Cape Cod National Seashore, and The Conservation Commission.

There will be four phases for the HR Restoration Project as follows:

Phase I HRTC Recommendation for the HR Restoration Project Management Plan and the 2nd Memorandum of Understanding to establish the Herring River Oversight Committee (HROC) by the HRTC to be made to the Town of Wellfleet BOS.

Phase II BOS and NPS Review and Approval of the HR Restoration Project Management Plan and the 2nd Memorandum of Understanding to establish the Herring River Oversight Committee.

Phase III Conscom/DEP Permitting as required to implement the HR Restoration Project Management Plan.

Phase IV HROC Implementation of the restoration in accordance with the HR Restoration Project Management Plan. The HROC shall provide the administration and oversight of the project implementation.

Under this structure the stakeholder administration and oversight issues will be addressed as follows:

Stakeholder Administration and Oversight Issues

7 - What oversight is proposed during the initial phases of restoration?

Conservation Commission (OOC) and Herring River Oversight Committee HROC

8 - What oversight is proposed during the remaining phases of restoration?

HROC

9 - Which agency will authorize any physical changes in elevation at the dike opening to adjust mean high water levels?

HROC, Town of Wellfleet (BOS) and NPS in accordance with HR Restoration Project Management Plan and the 2nd Memorandum of Understanding

10 - Which agency will implement these changes?

Contractor, Conservation Commission & NPS

11 - Who will authorize an operation and management agreement?

BOS & NPS via 2nd Memorandum of Understanding

12 - Who will implement a management agreement?

HROC via 2nd Memorandum of Understanding

16 - When and how will federal, state, town or individual liability decisions be addressed?

Town Counsel

18 - Who will administer claims and issues?

Board of Selectmen via Town Counsel

20 - Will the town and CCNS employ an administrator to manage certain aspects of this process?

Yes. Three suggestions are to be considered: (1) The chair of the HROC; (2) CZM with appropriate supplemental funding; (3) A separately hired "project manager/administrator" serving as executive director under the chair of the HROC.

25 - Will CCNS be allowed continued access after restoration?

Yes through HROC

30 - Would scrutiny by an independent agency (reviewing restoration plan) enhance credibility?

Yes through HROC - see issue 10

Tasks for HROC:

The HROC is specifically charged with the responsibilities for **Management Questions 7,8,9,25 and 30**. Other identified functions and the suggested committee membership from the 4/25/06 brainstorming based upon Gordon's notes of 4/26/06 are as follows:

- insure continuity and forward motion of project
- technical understanding
- management experience
- construction experience
- ability to participate in and understand permitting process
- communications and liaison skills
- ability to review and understand environmental monitoring information
- ability to understand alternate management options
- make decisions on adaptive management
- ability to understand grants process
- perform in an advisory capacity
- ability to perform construction monitoring
- ability to negotiate spending (contracts)
- control project manager

Herring River Oversight Committee (HROC) membership

1. Project manager

2. Town of Wellfleet representative(s)
3. Wellfleet ConCom member
4. Granting institutions
5. Town of Truro
6. State stakeholder entities
7. Federal stakeholder entities
8. HRTC member(s)
9. Barnstable County representative

Management Questions

1. Have expenses and financing for culverts at Pole Dike & Old County Roads been identified, if not when will these be addressed?
2. Will the agreement to initiate restoration between the Town and the CCNS be subject to Town Meeting approval or referendum?
3. Have all federal permits been identified?
4. Have all state permits been identified?
5. Have all local permits been identified?
6. What is the procedure to include all permitting?
7. What oversight is proposed during the initial phases of restoration?
8. What oversight is proposed during the remaining phases of restoration?
9. Which agency will authorize any physical changes in elevation at the dike opening to adjust mean high water levels?
10. Which agency will implement these changes?
11. Who will authorize an operation and management agreement?
12. Who will implement a management agreement?
13. When will it be appropriate to recommend initializing an internal scoping process?
14. When will an environmental impact study be performed?
15. When will a fund be established to mitigate any damage caused by restoration to private property owners, businesses and shellfishermen?
16. When and how will federal, state, town or individual liability decisions be addressed?
17. Where will the funds come from?
18. Who will administer claims and issues?
19. When will a financial plan covering costs, funding, and assignment of liability be drafted?
20. Will the town and CCNS employ an administrator to manage certain aspects of this process?
21. Who would facilitate the emigration of fresh water aquatic life away from the restored area and when would it occur?
22. What will be done to monitor the integrity of the Gut after restoration?
23. If the Gut were to be eroded by the restoration, what impact would that have on continuing restoration?
24. Who will be responsible for monitoring changes in sediment in the harbor?
25. Will CCNS be allowed continued access after restoration?
26. Does an environmental impact study need to be done?
27. What will be done to compensate private individuals for damages resulting from restoration?
28. Can undesirable effects of restoration at the Country Club be resolved?
29. How will the costs of restoration affect the tax rate?
30. Would scrutiny by an independent agency (reviewing restoration plan) enhance credibility?
31. What is the proposed plan for the level of restoration?
32. How large an area would this take place over?

Attachments:

Appendix A – Draft Report of the Permitting Sub-committee entitled Overview of Federal, State, and Local Environmental Permitting, dated 4/25/06

Appendix B – Herring River Restoration Project, Preliminary Budget (for planning purposes only), dated 4/25/06