From:	Casey, Carolyn
To:	McDonald, David
Subject:	RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991/Request to review adjusted sampling plan
Date:	Tuesday, September 05, 2017 12:26:00 PM
Attachments:	2017 0825 Access Revised Sampling Plan 37713-050-B010.pdf 2017 0824 Proposed Revisions 37713-050-B009 Aug 2016.pdf

Sorry about that being so vague. I forgot to attach these files. They changed the orientation of the sample transects to be parallel versus perpendicular to the shore line.

From: McDonald, David
Sent: Tuesday, September 05, 2017 11:39 AM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991/Request to review adjusted sampling plan

Hi, I'm not sure what "yes" would mean but if they intend to access the area sampling are by boat then a "yes" sounds good to me.

Dave McDonald
USEPA New England Regional Laboratory
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N. Chelmsford,MA 01863
(p) 617 918-8609
(f) 617 918-8509
(e) mcdonald.dave@epa.gov

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From: Casey, Carolyn
Sent: Friday, August 25, 2017 4:24 PM
To: McDonald, David <Mcdonald.Dave@epa.gov>
Subject: FW: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991/Request to review adjusted sampling plan

What do you think? I want to say yes, but maybe we should try to get access?

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Friday, August 25, 2017 4:19 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: Joseph Salvetti <JSalvetti@fstinc.com>; Clough, Steve <SClough@haleyaldrich.com>; Alepidis, Kenneth <KAlepidis@haleyaldrich.com>; Steinberg, Elliot <ESteinberg@haleyaldrich.com>; Jennifer L. Ioli <JLIoli@sherin.com>
Subject: Re: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991/Request to review adjusted sampling plan

Carolyn: we do plan water access using a small boat. A boat has been our plan from the outset. The need to use a boat is part of our push to perform the work in good weather.

Despite the sampling areas effectively being submerged they are privately owned. In Massachusetts private ownership extends to the mean low water line -- which is why we have needed private party consent.

I hope this response is helpful.

With this response, are you okay, then, with the adjustment?

Thanks,

Ron

Sent from my iPhone
Ronald Ruth
Sherin and Lodgen LLP
617.646.2165

On Aug 25, 2017, at 4:01 PM, Casey, Carolyn <Casey.Carolyn@epa.gov> wrote:

> I was about to send the previous comments where we requested consideration of access to sample locations

via the water and a water craft. Was this not considered or not possible? If not possible why? And if not possible, then this looks OK. Not ideal, but the delay has been considerable and it would be great to move this forward. I have not looked into EPA providing assistance for access since I don't recall the need. I think we left off suggesting water access.
Thanks
Carolyn

Carolyn J. Casey
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100
Mail code OSRR 07-3
Boston, MA 02109-3912
P 617-918-1368
F 617-918-0368
casey.carolyn@epa.gov

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Friday, August 25, 2017 3:39 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; 'Clough, Steve' <SClough@haleyaldrich.com>; 'Alepidis, Kenneth' <KAlepidis@haleyaldrich.com>; 'Steinberg, Elliot' <ESteinberg@haleyaldrich.com>; Jennifer L. Ioli <JLIoli@sherin.com>
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991/Request to review adjusted sampling plan

Carolyn, in my email of August 9, 2017, I noted that one property owner had declined access. We have consulted with Haley and Aldrich to develop an adjusted sampling plan for your review and approval. We believe the adjusted plan still will give rise to a representative sampling. The number of samples remains unchanged and the locations only are moved as minimally as possible. The adjusted plan will allow the sampling to be performed before the weather turns.
We respectfully request that EPA review and, hopefully, approve the adjustments to the sampling plan. Attached are "red-line" and "clean" plans showing proposed adjustments to the Beverly sediment sampling program, based on available access.
We look forward to your response.
Thank you.
Ron

Ronald W. Ruth 617.646.2165 rwruth@sherin.com

<image002.png>

From: Ronald W. Ruth
Sent: Monday, August 14, 2017 11:39 AM
To: 'Casey, Carolyn'
Cc: 'Joseph Salvetti'; 'Clough, Steve'; 'Alepidis, Kenneth'; 'Steinberg, Elliot'; Jennifer L. Ioli
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?

Carolyn, below is an excerpt of the email report we received form Haley and Aldrich:
It was a packed house last night at Beverly City Hall. See attached photo. The meeting turned out to be a regional listening session run by Jay Ash, Massachusetts Secretary of Housing and Economic Development (standing in white shirt). Residents, harbor masters, police, representatives of various yacht clubs got up to speak about the need for dredging of the various rivers on the north shore (a separate session was held for the south shore), as well as some old salts whose family built fishing vessels and opposed dredging. Jay Ash leading an effort to develop a state-wide process for dredging and was looking for input on funding sources

(public/private), benefits (recreational use of the waterways, jobs, safety – a theme that repeated), and maintenance plans. Some examples were of rivers that filled back in within 7 years, and some rivers/harbors had not been dredged in over a 100 years.
Please advise if you have any questions or comments.
Ron

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Monday, August 14, 2017 10:18 AM
To: Ronald W. Ruth
Cc: 'Joseph Salvetti'; 'Clough, Steve'; 'Alepidis, Kenneth'; 'Steinberg, Elliot'; Jennifer L. Ioli
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?
Sorry I missed this event. Was there anything relevant to the proposed work?

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Wednesday, August 09, 2017 4:06 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; 'Clough, Steve' <SClough@haleyaldrich.com>; 'Alepidis, Kenneth' <KAlepidis@haleyaldrich.com>; 'Steinberg, Elliot' <ESteinberg@haleyaldrich.com>; Jennifer L. Ioli <JLIoli@sherin.com>
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?

Carolyn, below is a quick update as to status. We continue to try to obtain access for the complete sampling area but have received consent only from the Yacht Club. We have a definite "no" from one property owner and are still seeking a response from the other.
We did want to draw to your attention a "listening session" concerning the proposed Bass River dredging project. The session is scheduled for tomorrow at 4:30 in Beverly. Please see attached. We plan to have Haley and Aldrich attend.
Please call or email with any questions or comments.
Thank you.
Ron

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Thursday, May 11, 2017 12:39 PM
To: Ronald W. Ruth
Cc: 'Joseph Salvetti'; 'Clough, Steve'; 'Alepidis, Kenneth'; 'Steinberg, Elliot'; Jennifer L. Ioli
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?
Thank you for the updates.

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Wednesday, May 10, 2017 2:02 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; 'Clough, Steve' <SClough@haleyaldrich.com>; 'Alepidis, Kenneth' <KAlepidis@haleyaldrich.com>; 'Steinberg, Elliot' <ESteinberg@haleyaldrich.com>; Jennifer L. Ioli <JLIoli@sherin.com>
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?

Carolyn: just to my earlier email in context, we are planning to complete this sampling effort as soon as possible, certainly in the next couple months - subject to access (the Yacht Club has granted access).
Ron

From: Ronald W. Ruth
Sent: Wednesday, May 10, 2017 10:16 AM
To: 'Casey, Carolyn'
Cc: 'Joseph Salvetti'; 'Clough, Steve'; 'Alepidis, Kenneth'; 'Steinberg, Elliot'; Jennifer L. Ioli
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?

Carolyn, thanks so much for your assistance. As shown of the attached the proposed R series of samples are within the fee owned parcels (which extend into the inter tidal zone) as shown on the attached. We believe consent is necessary. We think sediment sampling exceeds the scope of the fishing , fowling and navigation rights that arise from the Colonial Ordinances.
We are sending another round of letters to the owners. We will keep you apprised.
Thanks , again.
Ron

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Thursday, May 04, 2017 3:21 PM
To: Ronald W. Ruth
Cc: 'Joseph Salvetti'; 'Clough, Steve'; 'Alepidis, Kenneth'; 'Steinberg, Elliot'; Jennifer L. Ioli
Subject: FW: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991 Access Request?

The following specific responses in blue text are from the DEP. In addition, the process for requesting help from the DEP with access follows.

Here is some additional information to respond more directly to some of the questions.

If you are aware of authority for the work to proceed without the consent of owner of the fee interest in the intertidal zone, please advise as such a right would be helpful.

- My understanding is, in Massachusetts the law grants ownership of the intertidal zone between high and low mean water levels to the uplands landowner, with some rights granted to the public for fishing, fowling and navigation. So, I believe access is needed from the property owner for sampling in this area. You may want to look into this further.

Trying to collect surface water and sediment samples in the Bass River in Beverly within an intertidal zone at the edge of private property. Do you know who we go to for access via the water way, if the homeowner turns the facility down?

- **Maybe you do not need an access agreement if, the sampling is to be done below the low mean water level. If you need access but do not receive it, you can request help from MassDEP as I described in my earlier email.**

And even if the home owner says yes, and they can access from private property, is there an OK needed from MA DEP?

- **If the landowner grants access, no additional access is needed from MassDEP.**

Regards,

Jack

If the sampling is needed to complete response actions under the Chapter 21E & the Massachusetts Contingency Plan, typically, and if the property to which access is needed is not owned by a PRP, and after discussion and requests, access is not granted, MassDEP could try to facilitate the access agreement discussions if a request is made to MassDEP per 310 CMR 40.0173. Some of this MCP regulation is pasted below.

310 CMR 40.0173: Site Access Authorization

(1) After making reasonable efforts to obtain reasonable access to any site or other location to be investigated as a possible site not owned by him or her, a RP, PRP or Other Person who is unable to obtain such access may request, in writing, that the Department authorize him or her, or his or her employees, agents, representatives or contractors, to enter such site or location for the purpose of performing one or more necessary response actions. Each such request for authorization shall include all of the following information:

(a) the identity of the person making the request and his or her relationship to the site or location;

(b) the nature and location of the response action(s) that he or she intends to undertake, the anticipated duration of the response action(s) and the reason(s) such access is necessary to perform the response action(s);

(c) the identity of the person or persons who own or operate the site or location to which the Department's authorization for access is sought;

(d) the results of any and all attempts to obtain such access; and (e) certification that a copy of the request has been sent to each person or persons who own or operate such sites or locations.

(2) Any person who intends to submit such a request for authorization to the Department shall send a copy thereof to each person who owns and operates the site or location to which access is sought by certified mail, return receipt requested, and a statement informing such person that he or she may file a response thereto with the Department in accordance with 310 CMR 40.0173, prior to submitting the request to the Department. Each person to whom a copy of the request is sent may submit a response to the request, in writing, to the Department……

Usually attorneys at the MassDEP regional office are involved.

Let me know if you want to discuss further.

Jack

John F. Miano
Chief, Site Management Section
Bureau of Waste Site Clean-up
205B Lowell St., Wilmington MA 01887
Telephone 978-694-3357
Email john.miano@state.ma.us
MassDEP e-newsletter: mass.gov/dep/public/publications/enews.htm
MassDEP web site: mass.gov/dep

From: Knox, Rosemary (DEP)
Sent: Thursday, April 27, 2017 7:39 AM
To: Miano, John (DEP)
Subject: FW: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991

Hi Jack, Can you help with Carolyn's questions below regarding USM.

Rose

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Wednesday, April 26, 2017 11:11 AM
To: Knox, Rosemary (DEP)
Cc: Alexander, Lisa (DEP); Battaglia, Frank
Subject: FW: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991

We have an access issue. One specific question in yellow highlight in email below.

Trying to collect surface water and sediment samples in the Bass River in Beverly within an intertidal zone at the edge of private property. Do you know who we go to for access via the water way, if the homeowner turns the facility down? And even if the home owner says yes, and they can access from private property, is there an OK needed from MA DEP?

I found the following on the web. Chapter 91 or the Waterways Regulations <image004.png> But it seems to do more with construction and changes the intertidal zone. There will be no with only the small amounts of samples to be collected.

Then I found the following. Do you think it makes sense for me/facility to contact the following:

Executive Office of Energy and Environmental Affairs

100 Cambridge Street, Suite 900
Boston, MA 02114
Telephone: (617) 626-1000
Fax: (617) 626-4900
Email: env.internet@state.ma.us

This is related to the other piece of the USM Beverly site.

Thanks

Carolyn

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Tuesday, April 18, 2017 5:35 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: Jon Stott <jstott@firsthighland.com>; 'Salvetti, Joseph' <Joseph.Salvetti@stantec.com>; Clough, Steve <SClough@haleyaldrich.com>; 'KAlepidis@haleyaldrich.com' <KAlepidis@haleyaldrich.com>; 'Steinberg, Elliot' <ESteinberg@haleyaldrich.com>; Jennifer L. Ioli <JLIoli@sherin.com>
Subject: RE: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991

Carolyn,
Thank you for EPA's comments.
We will redouble our efforts to gain access to the outstanding properties, and in the event that we need EPA's assistance, we will be sure to let you know.
Further, although Massachusetts law provides rights to fish, fowl, and navigate in the intertidal zone

(whether submerged or not), as a private party, I believe my client does not have the right to sample, as suggested in Item 7 below. If you are aware of authority for the work to proceed without the consent of owner of the fee interest in the intertidal zone, please advise as such a right would be helpful.
Ron

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Monday, April 17, 2017 4:07 PM
To: Ronald W. Ruth
Subject: FW: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991
Resending

From: Casey, Carolyn
Sent: Monday, April 17, 2017 4:05 PM
To: 'Ronald W. Ruth '
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; 'Clough, Steve' <SClough@haleyaldrich.com>; 'Alepidis, Kenneth' <KAlepidis@haleyaldrich.com>; 'Steinberg, Elliot' <ESteinberg@haleyaldrich.com>; 'Jennifer L. Ioli' <JLIoli@sherin.com>
Subject: FW: Revised Beverly, MA/QAPP former USM/Stop&Shop site MAD043415991

Sorry for the delay in responding to your email (below). Upon review of the information submitted, we have determined that it would not be an appropriate substitute for the sampling proposed in the QAPP/WP. We are providing the following comments as explanation. Note they are not in any particular order of importance.. Please provide a date for sampling as soon as possible.

1) Toxicity testing for sediment dredge disposal is not necessarily representative of what is needed for an ecological risk assessment. In the usual ERA there is an assumption that sediments would not be remediated if they do not show unacceptable risk. In addition, sediment exposure in this more estuarine area with various zones, often determining key receptors it is likely quite a bit different then in a dredge spoils disposal area. Exactly where that is could make all the difference in the test species selection and what test is warranted or approved (i.e., acute vs chronic). From an ERA perspective, EPA would not likely have recommended the testing used for this study (i.e., *A. bahia)*, simply because it is more relevant to dredging and water column impacts whereas EPA is strictly looking at sediment in place at this point. The more sensitive 28-day chronic test using *L. plumulosus*, has been available since 2001. If we get to the point that more testing is forthcoming, the primary request, strictly from the ERA perspective, would likely be the chronic test with *L. plumulosus*. This allows for the assessment or the more sensitive growth and reproduction endpoints.
2) They WP proposes collection of sediments for chemical analyses, not just toxicity testing. Before toxicity testing, sediment chemistry results should be evaluated and compared to marine based sediment effects values. This would include looking at the chemical results from background locations.
3) It's not clear which properties are and are not providing access.
4) The figures provided appear to indicate that the samples were collected in the channel. Our areas of interest are not in the dredging zone shown in the figures.
5) The second bullet under Conclusions relative to USM QAPP states that the data is nearly 10 years old. This assertion regarding "less clean" appears highly speculative and unsubstantiated. The intention of the risk assessment is to present a risk characterization that defines the current and future risk potential. EPA bases its decisions on current data. A 10 year old toxicity test, particularly in such a dynamic environment, is not valid.
6) Concentrations in sediment would not be expected to decrease if the slag was continually or increasingly eroding and leaching to the sediments. More broadly, with all the ebbs and flows and other influences to this system any prediction to the level the ERA requires would be flawed. EPA cannot make decisions on conjecture.
7) Please clarify why samples cannot be strategically collected via water access.
8) EPA can assist with gaining access.

Carolyn J. Casey
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100
Mail code OSRR 07-3
Boston, MA 02109-3912
P 617-918-1368
F 617-918-0368

casey.carolyn@epa.gov

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Thursday, January 26, 2017 1:06 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; Clough, Steve <SClough@haleyaldrich.com>; Alepidis, Kenneth <KAlepidis@haleyaldrich.com>; Steinberg, Elliot <ESteinberg@haleyaldrich.com>; Jennifer L. Ioli <JLIoli@sherin.com>
Subject: RE: Revised Beverly, MA/QAPP former USM site MAD043415991

Carolyn,
Below is a status report of the sediment sampling effort and a request.
As the first step in the sampling effort (working through Haley and Aldrich (H&A)) our client (Stop & Shop) has secured consent from one of the three abutters from whom consent for access is necessary. The Bass Haven Yacht Club has granted access. Another abutter has refused to allow access. The third abutter has been unwilling to respond - efforts to contact that third abutter have included at least two letters and two phone calls to the property owner.
In the course of securing consent to access from the Bass Haven Yacht Club, H&A learned that the Army Corps of Engineers is in the process of issuing permits to allow the yacht club and the City of Beverly to perform maintenance dredging of the upper channel of the Bass River to improve vessel navigation. The northern limit of the dredge footprint is contiguous with the southern extent of the USM Sediment QAPP study area. In connection with the proposed dredging project bioassay assessment already has been conducted on the sediments of the Bass River. Further, the bioassay results show no significant risk of contamination in the dredge spoils. The proposed dredge area is downstream from the proposed H&A sampling area, as more particularly detailed in the attached memorandum prepared by Haley & Aldrich.
Given (1) the difficulty and delay in obtaining land owner consent, (2) the new information concerning the bioassay assessment, and (3) the upcoming dredge work, may I respectfully propose on behalf of Stop & Shop that the H&A sampling proceed Spring, 2017, using the consent obtained from the yacht club. In other words, samples would be taken only from the yacht club land. The results of the more limited sampling program combined with the newly discovered results of the bioassay assessment would enable to H&A to accomplish the objectives of the original sampling program and to do so in Summer, 2017.

If you have questions or comments, please do not hesitate to contact me to discuss.
Thank you,
Ron

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Tuesday, August 30, 2016 4:46 PM
To: Steinberg, Elliot; Ronald W. Ruth
Cc: 'Joseph Salvetti'; Clough, Steve; Alepidis, Kenneth
Subject: RE: Revised Beverly, MA/QAPP former USM site MAD043415991
Please see attached.
Also, please provide at least 2 weeks notice prior to any field work and/or sampling.
Thank You,
Carolyn

From: Casey, Carolyn
Sent: Monday, June 20, 2016 11:14 AM
To: 'Steinberg, Elliot' <ESteinberg@haleyaldrich.com>; Ronald W. Ruth <RWRuth@sherin.com>
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; Clough, Steve <SClough@haleyaldrich.com>; Alepidis, Kenneth <KAlepidis@haleyaldrich.com>
Subject: RE: Revised Beverly, MA/QAPP
Hope you all had a nice Father's day weekend!
Sorry for taking so much time with this review. I think the changes look good and have no further comments.
Please provide the signed cover page and I will sign and send back.
Also, please provide at least a two week notice prior to any sampling.
Thank You,
Carolyn
Carolyn J. Casey

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5 Post Office Square, Suite 100
Mail code OSRR 07-3
Boston, MA 02109-3912
P 617-918-1368
F 617-918-0368
casey.carolyn@epa.gov

From: Steinberg, Elliot [mailto:ESteinberg@haleyaldrich.com]
Sent: Tuesday, December 08, 2015 5:50 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>; Ronald W. Ruth <RWRuth@sherin.com>
Cc: 'Joseph Salvetti' <JSalvetti@fstinc.com>; Clough, Steve <SClough@haleyaldrich.com>; Alepidis, Kenneth <KAlepidis@haleyaldrich.com>
Subject: RE: Revised Beverly, MA/QAPP

Carolyn,

Attached is a revised draft QAPP in response to your comments of 30 September 2015, a redline comparison to the previous QAPP text, and facility responses to your 30 September comments narrative.

Elliot I. Steinberg, P.E., LSP
Brownfields Program Manager | Vice President
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465 Medford Street, Suite 2200
Boston, MA 02129-1400

T: (617) 886.7454
C: (617) 908.0354

www.haleyaldrich.com

From: Casey, Carolyn [mailto:Casey.Carolyn@epa.gov]
Sent: Wednesday, September 30, 2015 1:18 PM
To: Ronald W. Ruth
Cc: Steinberg, Elliot; 'Joseph Salvetti'; Clough, Steve
Subject: RE: Revised Beverly, MA/QAPP

Please see attached responses.

Thanks

Carolyn

Carolyn J. Casey
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P 617-918-1368
F 617-918-0368
casey.carolyn@epa.gov

From: Ronald W. Ruth [mailto:RWRuth@sherin.com]
Sent: Friday, August 28, 2015 10:59 AM
To: Casey, Carolyn
Cc: 'Steinberg, Elliot'; 'Joseph Salvetti'; Clough, Steve
Subject: Revised Beverly, MA/QAPP

Carolyn, in response to your request please find a clean and a compare version of a revised draft QAPP for EPA's review. We look forward to your comments. Please note that the revised sampling locations will require additional landowner access consents prior to commencement of that work.

Please call or email with any questions or comments.

Ron

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