



US Army Corps
of Engineers®
New England District

696 Virginia Road
Concord, MA 01742-2751

Public Notice

In Reply Refer to: Programs/Project
Management Division

Date: **October 1, 2009**

Comment Period Closes: **November 1, 2009**

30 DAY PUBLIC NOTICE

MAINTENANCE DREDGING OF THE PORTSMOUTH BACK CHANNELS AND SAGAMORE CREEK FEDERAL NAVIGATION PROJECT RYE, NEW CASTLE & PORTSMOUTH, NEW HAMPSHIRE

Interested parties are hereby notified that the U.S. Army Corps of Engineers, New England District, plans to perform maintenance dredging of the Federal navigation project, involving work in the navigable waters of this District, Section 404 of the Clean Water Act of 1977 (P.L. 95-217) and to authorize such work in accordance with Title 33, Parts 335-338 of the Code of Federal Regulations. Attachment No. 1 lists pertinent laws, regulations, and directives.

Project Description: The proposed work involves maintenance dredging of portions of the Portsmouth Back Channels and Sagamore Creek Federal Navigation Project (FNP) in Rye/New Castle/Portsmouth, New Hampshire (commonly called "Sagamore Creek"). The Back Channels consist of three 6-foot-deep MLLW navigation channels (a 100-foot-wide by 0.4 mile long channel, and two 75-foot-wide channels totaling 1.6 miles in length) and a three acre anchorage also 6-foot-deep at MLLW. The area is home port to a small commercial Lobster Fishing fleet as well as numerous recreational vessels. Additionally, the Back Channels and Sagamore Creek are widely used as a cut-through around New Castle Island and the mouth of the Piscataqua River for shallow draft vessels. The existing project was approved by the Chief of Engineers on December 23, 1965 under the general authority of Section 107 of the Rivers and Harbor Act of July 14, 1960, and modified by the Chief of Engineers July 18, 1969. (See Attachment 2)

Character and Purpose of Work: Natural shoaling processes have reduced available depths to as little as 4.0 feet MLLW in portions of the channels. State of New Hampshire officials have requested that this project be maintained. Approximately 8,000 cubic yards of clean sand is to be removed from the channels and anchorage to return the project to authorized dimensions. This work is expected to take 2 to 3 months to accomplish in the year(s) in which funds become available, contingent upon availability of necessary approvals.

Disposal Area Options: The dredged material has undergone physical analysis, in coordination with State and Federal resource agencies. The dredged material is clean sand, and we have determined that it is suitable for unconfined open-water disposal, as discussed in the project draft Environmental Assessment. The material will be placed at a nearshore disposal site in sub-tidal water adjacent to Wallis Sands Beach (See Attachment 2). Use of this site provides the benefit of keeping the clean sand material within the beach littoral system.

Additional Information: Additional information regarding this proposal may be obtained from Mr. Michael Walsh, Programs/Project Management Division; at the return address shown above, by e-mail at nae-pn-nav@usace.army.mil; or by telephone at (978) 318-8586.

Coordination: The proposed work is being coordinated with the following Federal, State, and local agencies:

Federal

US Environmental Protection Agency
US Fish and Wildlife Service
NOAA Fisheries

State of New Hampshire

Coastal Programs Office
Department of Environmental Services
Division of Historic Resources

Local Communities

Harbor Master
City of Portsmouth
Town of Rye
Town of New Castle

Environmental Impacts: An Environmental Assessment for this work is being prepared for the proposed action and, when completed, will be available for review upon request. I have made a preliminary determination that an Environmental Impact Statement is not required under the provisions of the National Environmental Policy Act of 1969. This determination will be reviewed in light of facts submitted in response to this notice.

Federal Consistency with New Hampshire's Coastal Zone Management Program: I find that maintenance dredging of the authorized navigation project is consistent, to the maximum extent practicable, with the State of New Hampshire's Coastal Program established as a result of the Coastal Zone Management Act of 1972. The dredging and disposal operation will be conducted, to the maximum extent practicable, in a manner that is consistent with the approved management program.

Other Information:

- a. **Local Sponsor:** The State of New Hampshire Port Authority is the local sponsor for the proposed work.
- b. **Previous Dredging:** The last complete dredging was performed in 1970 when 61,400 cy of material was dredged and disposed of at an upland disposal site.
- c. **Alternate Disposal Methods:** Alternate disposal options that have been considered include open-ocean disposal, beach disposal, and upland disposal. The Corps favors the near-shore disposal option because it places the dredged sand within the littoral sediment transport system at Wallis Sands Beach, and can be accomplished with the small scale dredging equipment required to perform the dredging. The proximity of the proposed near-shore disposal sites to the dredging area renders this alternative cost-effective.
- d. **Non-Federal Dredging:** Currently no private dredging is being proposed in conjunction with this project. Facility owners in proximity to the Portsmouth Back Channels and Sagamore Creek who may be interested in performing dredging concurrently with this project should be aware that any dredging work will require a permit from the Army Corps of Engineers under Section 10 of the Rivers and Harbors act and, depending on the location of the dredged material disposal, may also require a Corps permit under Section 404 of the Clean Water Act. In order to be disposed of in open water, private dredged material must be determined to be suitable for such disposal.
- e. **Endangered Species:** It is our preliminary determination that no threatened or endangered species occur in the dredging or disposal areas. The Corps will consult with NOAA Fisheries and the United States Fish and Wildlife Service to ensure that the proposed activity will not significantly affect any species or critical habitat designated as endangered or threatened pursuant to the Endangered Species Act of 1973 (87 Stat. 844).
- f. **Floodplain Management:** In accordance with Executive Order 11988, the Corps of Engineers has determined that the proposed work will not contribute to negative impacts or damages caused by floods.
- g. **Cultural Resources:** The proposed work consists only of maintenance, involving previously dredged areas, and will not affect any cultural or archaeological features or resources in the area of dredging.
- h. **Essential Fish Habitat Assessment:** It has been determined that dredging may have a temporary adverse effect on Essential Fish Habitat (EFH). The dredging and disposal sites are contained within areas designated EFH as defined by the Magnuson-Stevens Fishery Conservation and Management Act and amended by

the Sustainable Fisheries Act of 1996 for federally managed fish species. Several areas of eelgrass, totaling approximately 2.0 acres, were located in the vicinity of the Federal channels. In an effort to avoid negative impacts to eelgrass beds, this proposed action eliminates all dredging within proximity of those eelgrass beds. The Army Corps of Engineers has assessed the effects the proposed dredging is likely to have on EFH and has determined that they will be short-term and localized and that there will be no significant impacts on the designated fisheries resources. The Corps will consult with NOAA Fisheries and the United States Fish and Wildlife Service to ensure that all impacts will be minimized.

- i. Additional Requirements: An application for Water Quality Certification associated with disposal of the dredged material will be submitted to the New Hampshire Department of Environmental Services, under Section 401 of the Clean Water Act of 1977 (P.L. 95-217), along with a request for the State's concurrence with our determination of Federal consistency with the State's approved coastal zone management program. The Clean Water Act of 1977 requires that the work comply, to the maximum extent practicable, with State or interstate requirements to control the discharge of dredged or fill material.

The decision whether to perform the work will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, will be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered; among these are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classification, and the welfare of the people.

Any person who has an interest, which may be affected by the dredging and disposal of this dredged material, may request a public hearing. The request must be submitted in writing to me within 30 days of the date of this notice and must clearly set forth the interest, which may be affected and the manner in which the interest may be affected by this activity.

Please bring this notice to the attention of anyone you know to be interested in this project. Comments are invited from all interested parties and should be directed to: the U.S. Army Corps of Engineers, New England District, Programs/Project Mgmt Div, 696 Virginia Road, Concord, MA 01742-2751, ATTN: Michael Walsh; or emailed to nae-pn-nav@usace.army.mil within 30 days of this notice.



Philip T. Feir
Colonel, Corps of Engineers
District Engineer

Attachments

PERTINENT LAWS, REGULATIONS, AND DIRECTIVES

Clean Water Act, as amended (33 U.S.C. 1251 et. seq.)

Code of Federal Regulations, Title 33, Parts 335 through 338

National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347)

Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)

Fish and Wildlife Act of 1956 (16 U.S.C. 472a, et. seq.)

Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g)

Sections 307(c)(1) and (2), Coastal Zone Management Act of 1972

[16 U.S.C. 1456(c)(1) and (2)]

National Historic Preservation Act of 1966 (16 U.S.C. 470)

Endangered Species Act of 1973 as amended (16 U.S.C. 668aa-668cc)

Clean Air Act, as amended (42 U.S.C. 1221 et. seq.)

Estuary Protection Act (16 U.S.C. 1221 et. seq.)

Federal Water Project Recreation Act, as amended (16 U.S.C. 4601-12 et. seq.)

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 et. seq.)

Magnuson-Stevens Fishery Conservation and Management Act and amended by the

Sustainable Fisheries Act of 1996

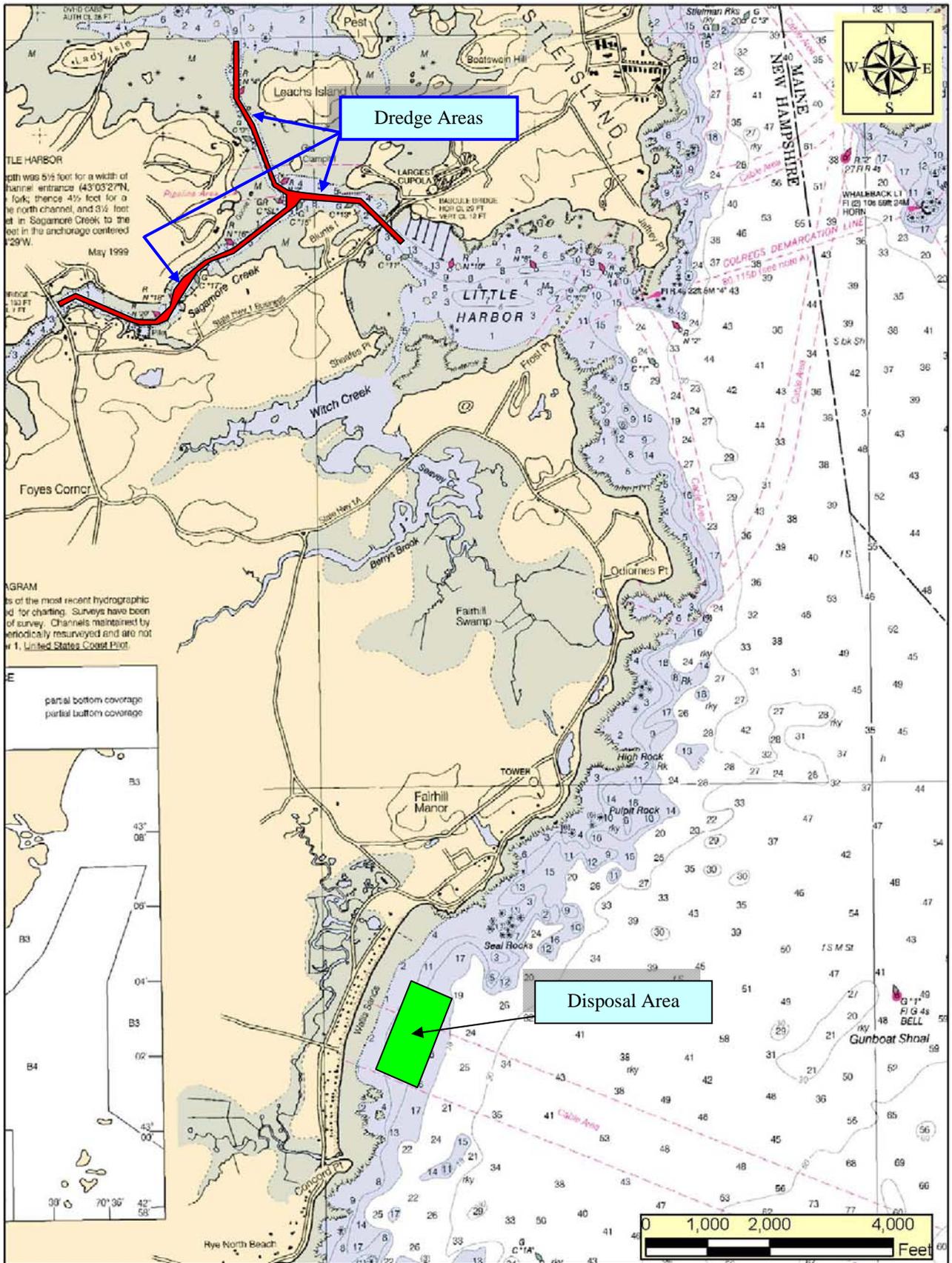
Executive Order 11988, Floodplain Management, 24 May 1977

Executive Order 11990, Protection of Wetlands, 24 May 1977

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority

Populations and Low Income Populations, 11 February 1994

Attachment 1



Attachment 2