



US Army Corps  
of Engineers®  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# Public Notice

In Reply Refer to: Dubán Montoya  
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Programs/Project  
Management Division

Date: **March 23, 2007**

Comment Period Closes: **April 23, 2007**

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## 30 DAY PUBLIC NOTICE

### MAINTENANCE DREDGING OF THE FEDERAL CHANNEL AND ANCHORAGE AREAS IN WELLFLEET HARBOR WELLFLEET, MASSACHUSETTS

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, under the provisions of 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 the Federal Navigation Project at Wellfleet which provides for a channel 10-foot deep (mean lower low water) by 125-foot wide from “Deep Hole” in Wellfleet Harbor to the town landing, and a 10-foot deep anchorage basin 800 feet by 500 feet at the head of the channel. The Federal channel and anchorage areas in Wellfleet Harbor were authorized by the River and Harbor Act of March 2, 1945 (H. Ed. Doc. No. 557, 76th Congress, Third Session). See project location map on Attachment 2.

**Character and Purpose of Work:** Wellfleet harbor serves as a natural harbor for commercial fishing and charter boats, and offers an excellent marina and facilities to accommodate tourists, vacationers, pleasure boaters, and recreational water users. Natural shoaling processes in the 10-foot-deep entrance channel and the 10-foot-deep anchorage have reduced available depths, creating navigation hazards at lower stages of the tide. Maintenance dredging of about 150,000 cubic yards (cy) of material from the authorized project area will restore the entrance channel and the anchorage to authorized dimensions.

Dredging will be performed by mechanical dredge and the dredged material will be brought to the Cape Cod Bay Disposal Site (CCDS), about 8 miles west of the harbor. The dredged material has undergone physical and chemical analysis. It is our preliminary determination that the material is acceptable for disposal at this disposal site. The dredging area is shown on Attachment 3 and the disposal area is shown on Attachment 4. The work will take place over a 3.5 month period in the year(s) in which funds become available.

**Disposal Site:** The Cape Cod Bay Disposal Site was first used in 1971 for the disposal of sediments dredged from Wellfleet Harbor. It has been infrequently used since then for disposal of dredged material from the coasts of Cape Cod Bay. This disposal site is monitored and managed by the Massachusetts Department of Conservation and Recreation. Studies show that the site is a low energy environment such that sediment deposited at this location will remain within the site's boundaries. Levels of metals in the sediments within the disposal site are slightly above background levels, indicative of the influence of the earlier dredge disposal at the site. Areas outside the disposal site have not been found to be affected by sediment deposited within the site. The disposal site is located within the identified limits of the Right Whale Critical Habitat Area.

**Additional Information:** Additional information may be obtained from Mr. Dubán Montoya, Programs/Project Management Division, at the return address shown, by email at [nae-pn-nav@nae02.usace.army.mil](mailto:nae-pn-nav@nae02.usace.army.mil) or by telephone (978) 318-8086.

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

Federal:

Environmental Protection Agency  
U.S. Fish and Wildlife Service  
National Marine Fisheries Service

State of Massachusetts:

MA Department of Environmental Protection  
MA Office of Coastal Zone Management  
MA Historical Commission

Towns of Wellfleet

Harbormaster  
Conservation Commission

**Environmental Impacts:** An Environmental Assessment for this work is being prepared and will be available for review upon request. I have made a preliminary determination that an Environmental Impact Statement for the proposed maintenance dredging 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 the Massachusetts Coastal Zone Management Program:** I find that maintenance dredging of the authorized navigation project is consistent, to the maximum

extent practicable, with the applicable management 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 town of Wellfleet is the local sponsor for the proposed work.
- b. Previous Dredging: Maintenance dredging of the Wellfleet Harbor Federal navigation project has been performed three times since 1971. The most recent maintenance dredging of the channel occurred in 1995 when approximately 111,000 cubic yards (cy) of material were removed and also brought to the CCDS.
- c. Alternate Disposal Methods: Alternate disposal options that have been considered include nearshore disposal, open-ocean disposal, beach disposal, and upland disposal. The area around Wellfleet Harbor is considered an Area of Critical Environmental Concern, thus no upland, beach nourishment or nearshore placement areas were found. The nearest, suitable in-water disposal site available is the CCDS.
- d. Non-Federal Dredging: Currently no private dredging is being proposed in conjunction with this project. Facility owners within the harbor who may be interested in performing dredging concurrently with this project should be aware that work will require a permit from the Army Corps of Engineers under Section 10 of the Rivers and Harbors act and, 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: Occasional transient sea turtles or seals may be present in Wellfleet Harbor. However, coordination (pursuant to the Endangered Species Act of 1973) with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) concluded that threatened or endangered species in the dredging area are not likely to be impacted by construction activities. Threatened and endangered species at the CCDS include 5 species of sea turtles and 22 species of cetaceans (whales, dolphins, and porpoises). In order to avoid impacts to these species, a construction window of September 15 through December 31 will be used. NMFS and FWS have concluded that the project will not likely affect threatened or endangered species in the vicinity of the CCDS within the proposed project timeframe.
- 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 a previously dredged area and will not affect any cultural or archaeological features or resources.
- h. Essential Fish Habitat Assessment: It has been determined that the proposed project may have a temporary adverse effect on Essential Fish Habitat (EFH). The project area is 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. The Army Corps of Engineers has assessed the effects 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 prepare an EFH Assessment to obtain EFH Conservation Recommendations from the National Marine Fisheries Service.

Additional Requirements: A request has been sent to the Massachusetts Office of Coastal Zone Management for the State's concurrence with our determination of Federal consistency with the State's approved coastal zone management program. A request was also sent to the Massachusetts Department of Environmental Protection for a Water Quality Certification in accordance with the Clean Water Act of 1977, which 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 that 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 that 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, 696 Virginia Road, Concord, MA 01742-2751, ATTN: Mr. Dubán Montoya, within 30 days of this notice.



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Curtis L. Thalken  
Colonel, Corps of Engineers  
District Engineer

Attachments

## **Attachment 1**

### **PERTINENT LAWS, REGULATIONS, AND DIRECTIVES**

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

Code of Federal Regulation, 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)

Coastal Zone Management Act of 1972 [16 U.S.C. 1456(c)(1) and (2)], Sections 307(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

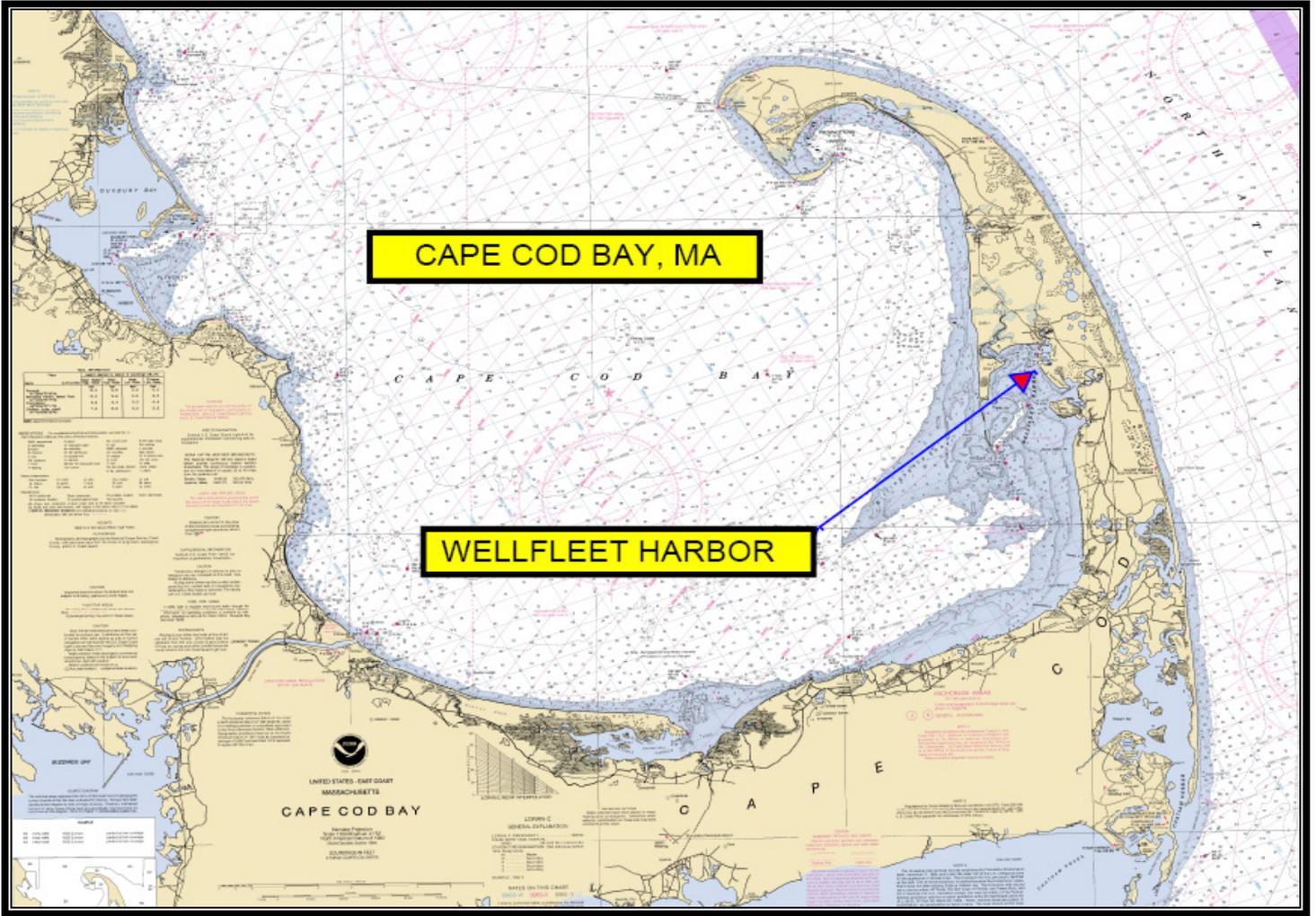
Executive Order 11988, Floodplain Management, 24 May 1977

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 2

### Map of Wellfleet Harbor Federal Navigation Project Location Map



# Attachment 3

## Map of Wellfleet Harbor Federal Navigation Project – Dredging Area



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## Attachment 4

Map of Wellfleet Harbor Federal Navigation Project Disposal site

