



US Army Corps
of Engineers®
New England District

696 Virginia Road
Concord, MA 01742-2751

Public Notice

In Reply Refer to: Bill Kavanaugh
nae-pn-nav-nav@nae02.usace.army.mil
Programs/Project Management Division

Date: November 26, 2008

Comment Period Closes: December 26, 2008

30 DAY PUBLIC NOTICE

MAINTENANCE DREDGING OF THE CAPE COD CANAL FEDERAL NAVIGATION PROJECT BOURNE AND SANDWICH, MASSACHUSETTS

Interested parties are hereby notified that the U.S. Army Corps of Engineers, New England District, plans to perform maintenance dredging of portions of the Federal Navigation Project (FNP) at the Cape Cod Canal 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 1 lists pertinent laws, regulations, and directives.

Project Description: The Cape Cod Canal is a toll free, open-to-all waterway that connects Buzzards Bay and Cape Cod Bay. The project is used by both commercial vessels and recreational vessels and eliminates the need to transit around Cape Cod; a distance of approximately 135 miles, and a more hazardous route. The authorized FNP provides for a 600-foot long jetty and a 3,000-foot long breakwater, both at the east end of the Canal; a channel 32-feet deep at Mean Lower Low Water (MLLW) throughout its 17.5 mile length and two mooring basins; the West Mooring Basin, 32-feet deep at MLLW at the west end; and the East Mooring Basin (EMB), 25-feet deep at MLLW at the east end of the Canal.

Character and Purpose of Work: The proposed work involves maintenance dredging to remove approximately 50,000 – 60,000 cubic yards (cy) of clean sand and gravel from various locations in the authorized, 32-feet deep by 500-foot wide, main-ship channel and the 25-feet deep EMB portions of the project (see Attachment 2). Shoaling in the main-ship channel causes tidal delays and hazardous conditions for deep-draft commercial vessels transiting the Canal. Shoaling in the EMB limits the available space to moor these vessels in emergencies (e.g. icing). Further shoaling in the Canal proper may result in some of the deep draft vessels having to completely avoid using the Canal and transit around Cape Cod thereby significantly increasing the risk profile of these vessels, especially during the winter months.

The proposed work will be performed by either a hydraulic hopper dredge or a mechanical dredge and attendant scows. The dredged material will be placed at either the previously used Cape Cod Canal Disposal Site (CCCDS) in Cape Cod Bay; or, it potentially could be used as a source of material to cap the Confined Aquatic Disposal (CAD) cells constructed as part of the ongoing Boston Harbor Inner Harbor Maintenance Dredging Project (BHIHMP). Contingent on the availability of the necessary approvals and funds, the work will be performed within a 2-3 month period during the late winter or early spring of 2009.

Disposal Areas: The dredged material has undergone physical analysis in the past and has been deemed suitable for disposal as proposed. Both of the proposed disposal sites have been used previously for disposal of dredged material from the Cape Cod Canal. The CCCDS is described as a circular area, one nautical mile in diameter, located about 3.6 nautical miles northeast of Cape Cod Canal Buoy #1. The center is located at 40° 49'N, 70° 25'W (see Attachment 3). The Boston Harbor CAD cells were constructed in conjunction with the BHIHMP and are located in the Main Ship Channel and in the Mystic River (see Attachment 4). The CAD cells were designed to receive that portion of the dredged material from the BHIHMP which has been deemed unsuitable for unconfined, open water disposal and are required to be capped with clean sediments. The possibility of using dredged material from the Cape Cod Canal project as a source of cap material for the Boston Harbor project is highly contingent upon the schedule for both projects and how they coincide will determine the likelihood of this option being utilized.

Additional Information: Additional information may be obtained from Mr. Bill Kavanaugh, Programs/Civil Project Management Branch, Programs/Project Management Division, at the return address shown, by email at nae-pn-nav-nav@nae02.usace.army.mil or by telephone at (978) 318-8328.

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

Federal

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

State of Massachusetts

Massachusetts Department of Environmental Protection
Massachusetts Office of Coastal Zone Management
Massachusetts Historic Preservation Office

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

Other Information:

a. Non-Federal Dredging: Currently, no private dredging is being proposed in conjunction with this project. Facility owners within, or adjacent to the project who may be interested in performing dredging concurrently with this project should be aware that privately dredged material must be determined to be suitable for disposal as proposed and that their work will require a permit from the U.S. Army Corps of Engineers (USACE) under Section 10 of the Rivers and Harbors Act. Depending on the proposed disposal site location for the dredged material it may also require a USACE permit under Section 404 of the Clean Water Act.

b. Previous Dredging: The last maintenance dredging of the Canal was performed in 2002 when 117,000 cy of material were removed from the FNP and placed at the Cleveland Ledge Disposal Site in Buzzards Bay. Maintenance dredging was also performed in 1998-2000 when 162,000 cy were removed and used to cap CAD cells in Boston Harbor; and, 1990 when approximately 122,000 cy of material were removed and placed at both the CCCDS and a near-shore disposal site off of Springhill Beach in Sandwich, MA.

c. Alternate Disposal Methods: Near-shore disposal was considered but not selected due to concern that it may adversely affect the habitat of fisheries resources. A Section 204 study is currently underway which will evaluate the potential for beneficially using dredged material from future Cape Cod Canal maintenance dredging projects in conjunction with local communities' projects; however, this study will not be concluded prior to this maintenance dredging event.

d. Endangered Species: It is our preliminary determination that no threatened or endangered species in the dredging area will be impacted by the proposed project. The Federally-endangered Roseate Terns are known to inhabit Bird Island located approximately 1 nautical mile west of the Cleveland Ledge Channel, but neither their nesting nor foraging activities should be impacted by project-related activities. The Corps will consult with the National Marine Fisheries Service 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).

e. 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.

f. Cultural Resources: The proposed work consists of maintenance dredging, involving previously dredged areas and previously used disposal areas, and therefore should not adversely affect any cultural or archaeological features or resources.

g. Essential Fish Habitat Assessment: It has been determined that the project may have a temporary adverse effect on Essential Fish Habitat (EFH). The project site is contained within areas designated as 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 U.S. Army Corps of Engineers has assessed the effects that the project 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 the National Marine Fisheries Service and the U.S. Fish and Wildlife Service to ensure that any potential impacts will be minimized.

h. Additional Requirements: 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. An application for Water Quality Certification (WQC) for disposal of dredged material at the CCCDS has been submitted to the Massachusetts Department of Environmental Protection (MADEP), under Section 401 of the Clean Water Act of 1977 (P.L. 95-217). A WQC has been issued by the MADEP for disposal of material as cap for the CAD cells in Boston Harbor. 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.

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 the District Engineer within the comment period 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, 696 Virginia Road, Concord, MA 01742-2751, ATTN: Bill Kavanaugh, within 30 days of this notice.

William J. Feir, P.E. Deputy District Engineer
for 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

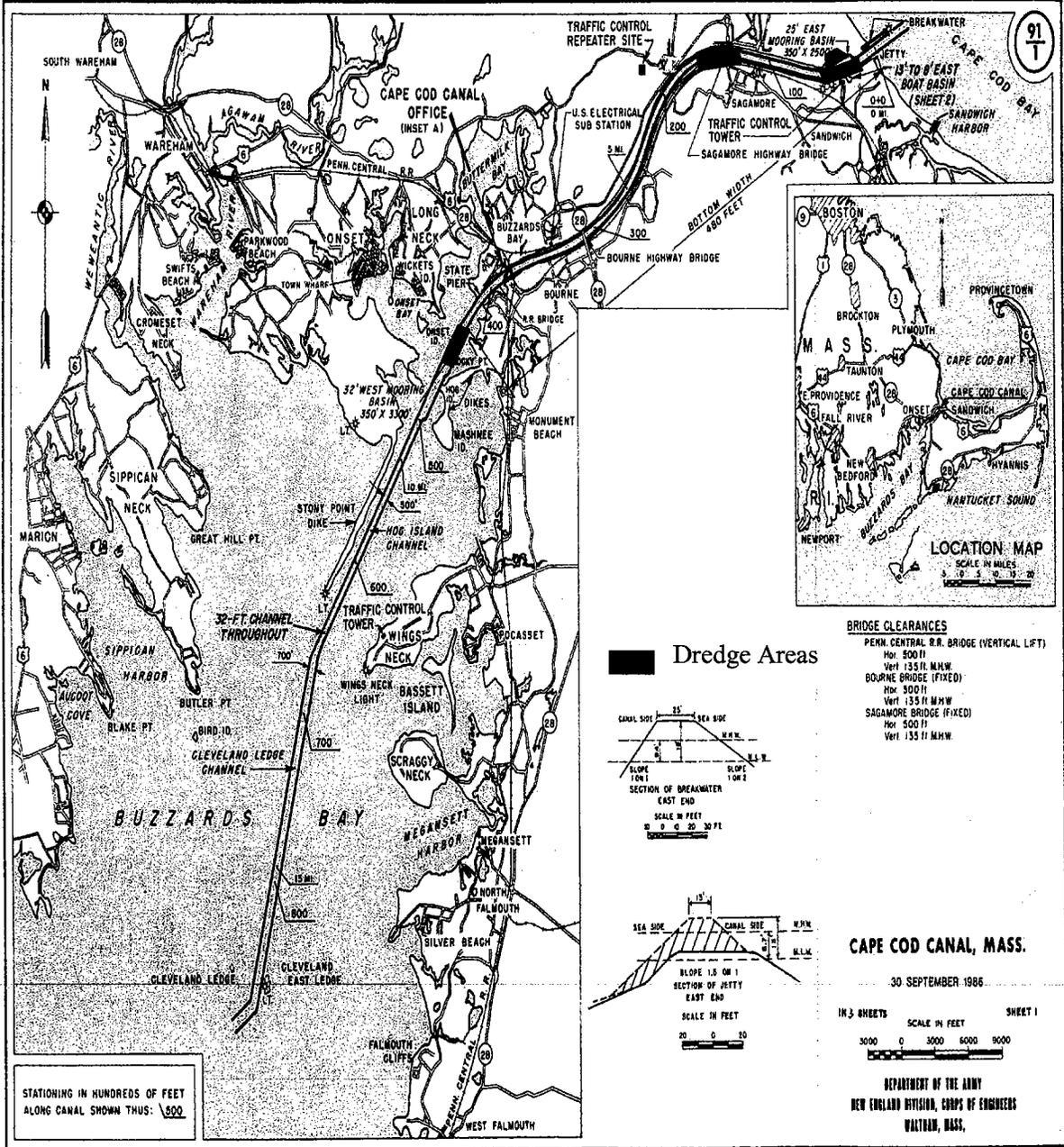
Executive Order 11988, Floodplain Management, 24 May 1977

Executive Order 11990, Protection of Wetlands, 24 May 1977

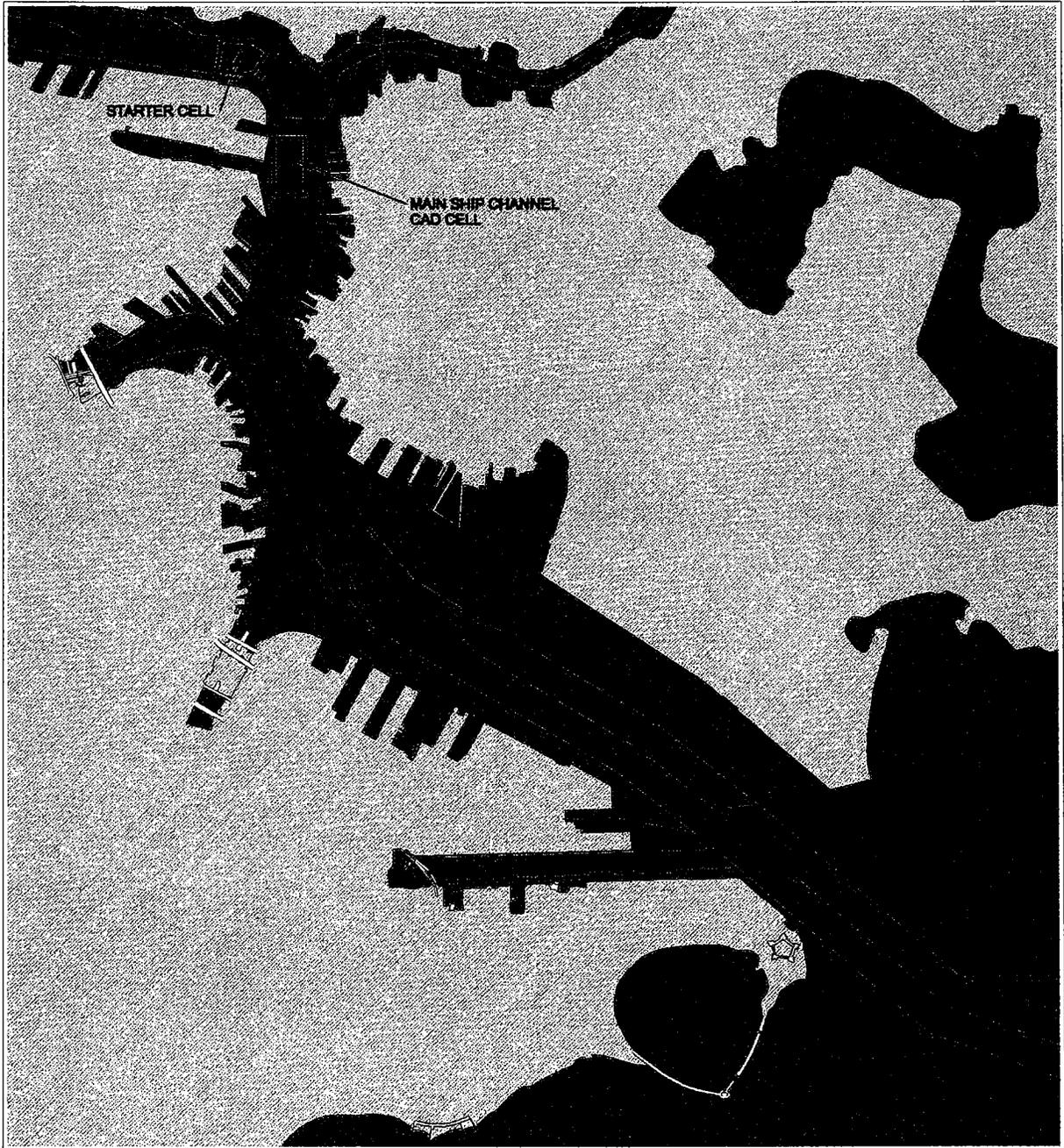
Executive Order 12898, Federal Actions to Address Environmental Justice in Minority

Populations and Low Income Populations, 11 February 1994

Attachment 1



Cape Cod Canal



Boston Harbor Inner Harbor Maintenance Dredging Project CAD Cell Locations.

Attachment 4