



US Army Corps
of Engineers®
New England District

696 Virginia Road
Concord, MA 01742-2751

Public Notice

In Reply Refer to: Mr. Dubán Montoya
nae-pn-nav@usace.army.mil

Programs/Project
Management Division

Date: **September 3, 2010**

Comment Period Closes: **October 4, 2010**

30 DAY PUBLIC NOTICE

MAINTENANCE DREDGING OF THE FEDERAL NAVIGATION PROJECT IN DUXBURY HARBOR DUXBURY, 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 in Duxbury Harbor, Duxbury, Massachusetts, involving work in navigable waters of this District, under the provisions of Section 404 of the Clean Water Act, 33 U.S.C. § 1344, 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.

Existing Project Description: The Federally authorized project provides for a channel, eight feet deep at Mean Lower Low Water (MLLW) and 100 feet wide leading from the Easterly Channel in Duxbury Bay to near the Town Wharf, and a 21 acre anchorage basin eight feet deep at MLLW. The dredged channel is L-shaped extending nearly due south from the basin for more than one-half mile and then easterly for almost one-third of a mile until it intersects with the natural channel (Easterly Channel). The harbor provides shore facilities for the 32 miles of shoreline on Duxbury Bay and the 2000+ commercial and recreational vessels moored in the bay. The project was last maintained in 1996/1997 when about 250,000 cubic yards (cy) of material were removed and placed in open water at the Cape Cod Bay Disposal Site (CCBDS).

Proposed Work: Coastal storms and natural shoaling have reduced available depths to less than two feet in the northeastern corner of the anchorage and less than six feet in some areas of the channel. The proposed work involves dredging an area of about 26 acres in Duxbury Bay, which will produce a volume of about 135,000 cubic yards (CY) of sandy and silty material to restore the project to its authorized dimensions (Attachment 2).

The work will be done by a private contractor, using a mechanical dredge (clamshell bucket) and scows, under contract to the Government. The dredge will remove the material from the shoal areas of the Federal project and tow it to the Cape Cod Bay Disposal Site for disposal (Attachment 3).

The dredging work is expected to take 3 to 4 months to be completed in the year(s) that Federal funds become available.

Disposal Area Options: The material underwent physical, chemical, and biological testing and has been deemed suitable for placement at the CCBDS. The same disposal site was used the last time Duxbury Harbor was dredged.

The CCBDS 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 Environmental Management. 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@usace.army.mil or by telephone at (978) 318-8086.

Coordination: The proposed work has, or will be coordinated with the following agencies:

Federal:

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

State of Massachusetts:

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

Tribal Nations:

Mashpee Wampanoag Tribe
Narragansett Indian Tribe
Wampanoag Tribe of Gay Head

Local:

Duxbury Harbormaster
Duxbury Bay Management Commission

Environmental Impacts: An Environmental Assessment (EA) for dredging the Duxbury Harbor Federal Navigation Project with disposal at the Cape Cod Bay Disposal Site 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 and disposal of the authorized navigation project at Duxbury Harbor, Massachusetts is consistent, to the maximum extent practicable, with the applicable management program established as a result of the Coastal Zone Management Act of 1972.

Other Information:

- a. **Local Sponsor:** Duxbury Harbormaster and Duxbury Bay Management Commission are the local sponsors for the proposed work.
- b. **Previous Dredging:** Maintenance dredging of the Duxbury Harbor Federal navigation project was last performed in 1996/1997 when about 250,000 cubic yards of material were dredged and placed in open water at the Cape Cod Bay Disposal Site. Prior to that, the project had not been maintained since 1976/1977.
- c. **Alternate Disposal Methods:** Alternate disposal options that have been considered include beach disposal and upland disposal. The majority of material is fine silt which is not suitable for beach nourishment. The lack of a suitable upland disposal site eliminated this alternative from consideration.
- d. **Non-Federal Dredging:** Currently there are five (5) non-Federal facilities in the inner-harbor that are proposed to be dredged by others (potentially in conjunction with this project). This total additional volume is about 11,000 cubic yards. Once a responsive contractor has been identified for the Federal project, the non-Federal entities are expected to approach our contractor to arrange for dredging those areas outside the limits of the Federal navigation project. This additional work will be carefully considered in light of the limited dredging window expected for the work. The Federal project will have the highest priority. The non-Federal entities (Attachment 4) that are currently seeking environmental approvals for dredging are:
 - Duxbury Yacht Club (3,400 cy)
 - Duxbury Town Landing (2,400 cy)
 - Duxbury Bay Maritime School (3,200 cy)
 - Bayside Marine (450 cy)
 - Battelle Memorial Institute (1,100 cy)

If any other non-Federal entities are interested in maintenance dredging, they will need to seek their environmental approvals, and coordinate with the apparent low bidder of the Federal project once one is identified.

- e. Endangered Species: It is our preliminary determination that no threatened or endangered species are residents of the project area. Threatened and endangered species that may be found at the CCBDS include 5 species of sea turtles and 5 species of whales. In order to avoid impacts to these species, a construction window of September 15 through December 31 will be used. The Corps is consulting with National Marine Fisheries Service (NMFS) 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, 16 U.S.C. § 1531et seq.
- 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 of maintenance dredging involving previously disturbed areas and is not likely to 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, as 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 effects will be short-term and localized and that there will be no significant impacts on the designated fisheries resources. The Corps is consulting with NMFS to assure that all impacts will be minimized to the maximum extent practicable.


Additional Requirements: A request is being 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 is also being sent to the Massachusetts Department of Environmental Protection for a Water Quality Certification in accordance with Section 401 of the Clean Water Act, 33 U.S.C. § 1341, 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 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.

30 August 2018
Date


Philip T. Feir
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. 661-667e)

Fish and Wildlife Act of 1956 (16 U.S.C. 742a, et. seq.)

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

Coastal Zone Management Act of 1972 (16 U.S.C. 1456)

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

Endangered Species Act of 1973 as amended (16 U.S.C. 1531 et seq.)

Clean Air Act, as amended (42 U.S.C. 7401 et. seq.)

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

Federal Water Project Recreation Act, as amended (16 U.S.C. 460L-12 et. seq.)

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460L et. seq.)

Magnuson-Stevens Fishery Conservation and Management Act as amended by the
Sustainable Fisheries Act of 1996 (16 U.S.C. 1801 et seq.)

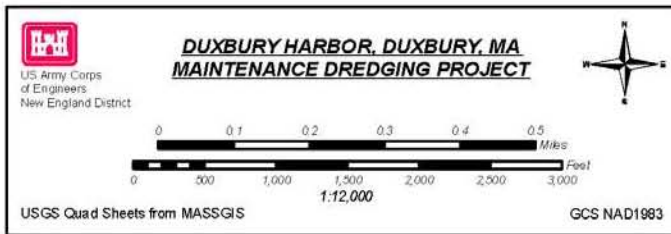
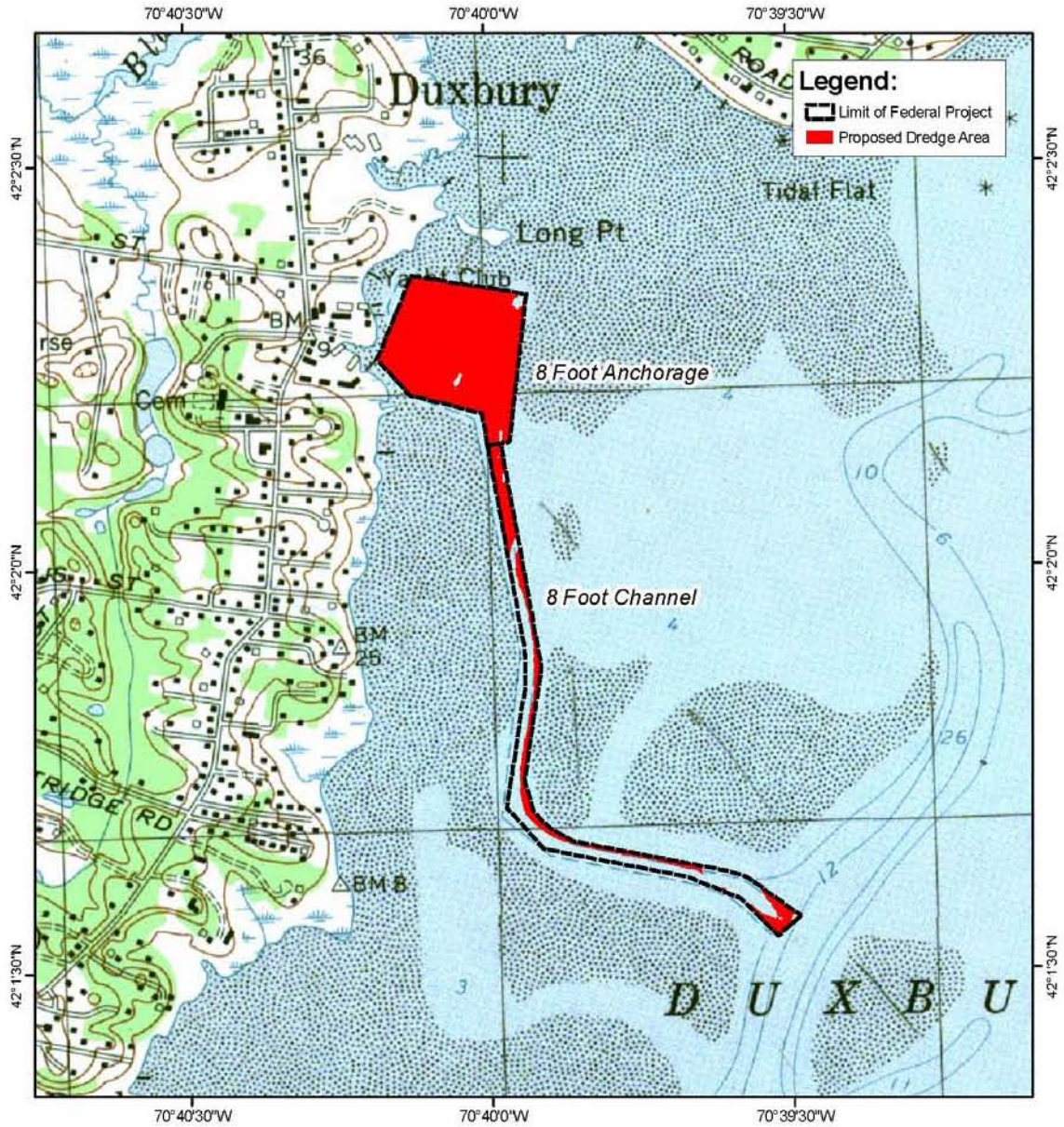
Executive Order 11988, Floodplain Management, 24 May 1977

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

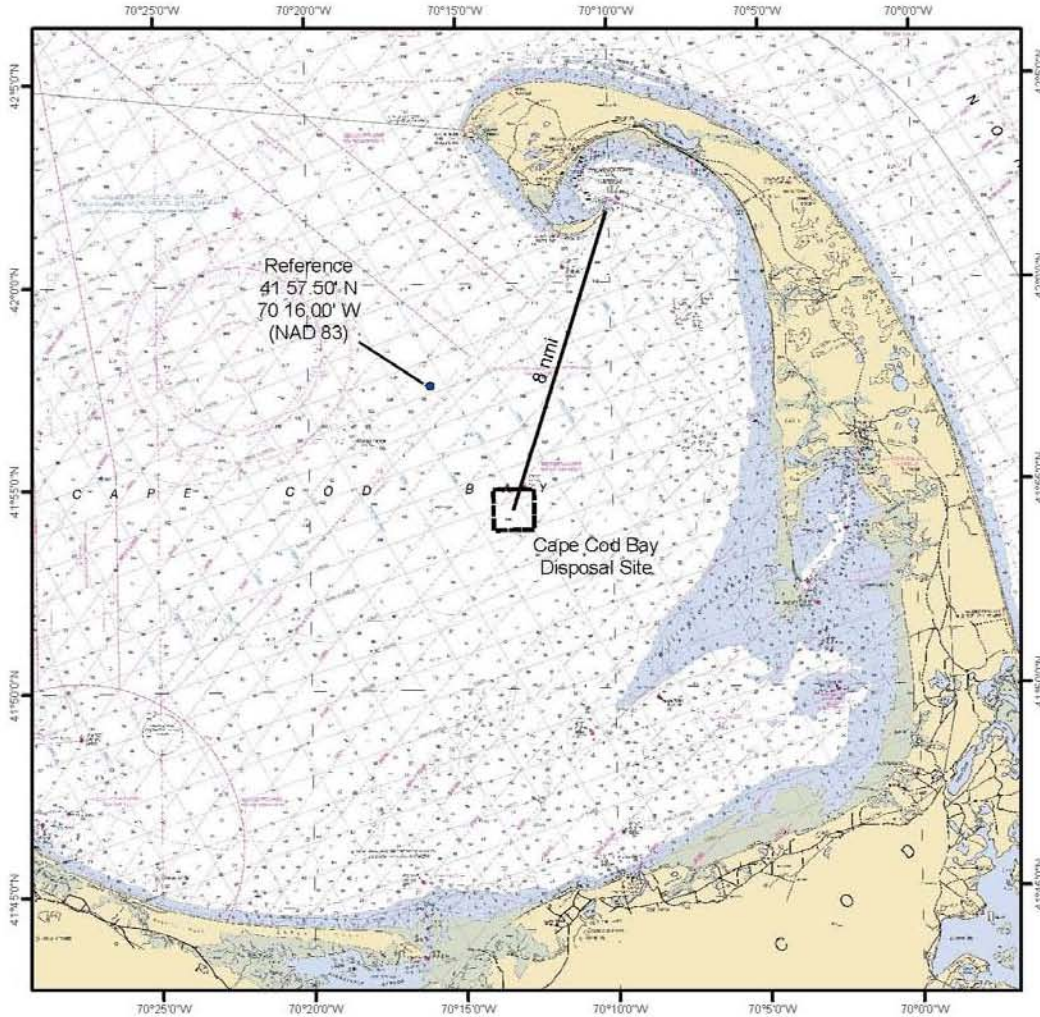
Attachment 2

Map of Duxbury Harbor Federal Navigation Project



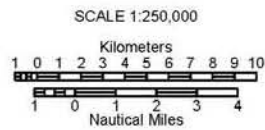
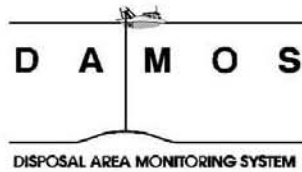
Attachment 3

Map of Cape Cod Bay Disposal Site



CAPE COD BAY DISPOSAL SITE

Description: The Cape Cod Bay Disposal Site (CCBDS) is centered at coordinates 41° 54.406' N, 70° 13.268' W (NAD 83) and is located 8.0 nmi (14.9 km) southwest of Long Point, Provincetown, Massachusetts. The site has a relatively flat, featureless seafloor with an average water depth of 102 ft (31 m). The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project documents



NOTE: This chart is not intended for use in navigation.



Attachment 3

Attachment 4

Non-Federal Dredging Proposals (by others)

