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U.S. ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT

Joint EPA/USACE Public Hearing held at
the Lighthouse Inn of Galilee, Rhode Island, on
June 15, 2004, at 1:00 p.m. and 7:00 p.m.,
concerning:

Draft Environmental Impact Statement
Rhode Island Long-Term Dredged Material Disposal
Site Evaluation Project

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MODERATOR ROSENBERG: Once again, good afternoon. I am Larry Rosenberg. I am Chief of Public Affairs for the United States Army Corps of Engineers in New England, and I would like to welcome you to this public hearing held in conjunction with the Draft Environmental Impact Statement for the Rhode Island Region Long-Term Dredged Material Disposal Site Evaluation Project, which was released on the -- by the government on April 30th.

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This hearing is being held in accordance with the National Environmental Policy Act for the sole purpose of listening to you.

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Before we begin, I would like to thank you for getting involved in this environmental review process. You see, we're here to listen to your comments, understand your concerns, and provide you an opportunity to go on the record, should you care to do so. This hearing is yours.

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24

Our Hearing Officer today is Mel Cote, Manager of the Water Quality Unit of the Office of Ecosystem Protection of the Environmental

1 Protection Agency, New England Region, that is
2 headquartered in Boston, Massachusetts.

3 Other Federal representatives with me
4 today are from the EPA, Olga Guza, the EPA's
5 Project Manager, and Ann Rodney, a team member on
6 this project.

7 From the Corps is Michael Keegan, the
8 Corps of Engineer's Project Manager, and Kathy
9 Rogers, the Army Corps's Environmental Team Member.
10 And, of course, the staff of the Public Affairs
11 Office, who you met as you entered this facility.

12 Should you need copies of the public
13 notice, it appeared in the Federal Register. The
14 hearing procedure or other pertinent information,
15 it is all available at the registration table.

16 The agenda today is: Following this
17 introduction, Mel Cote will address the hearing.
18 It will be followed by the Corps of Engineers'
19 Project Manager, Mike Keegan, who will provide a
20 brief project history, and an overview of the
21 Corps' role, and then discuss the public meeting
22 that will follow this hearing.

23 Mike will then introduce Dr. Carlton
24 Hunt from Battelle, contractor to the Corps, who

1 will make a 30-minute or so presentation on the EIS
2 processes and the recommendations. I will then
3 open this hearing to public comment, utilizing the
4 hearing protocol.

5 I should point out that the draft EIS
6 has made a preliminary recommendation, and that no
7 final decision has been made, until your comments
8 and concerns are heard and addressed.

9 The public comment period for this
10 Draft Environmental Impact Statement started on
11 April 30th, and will close on June 21st. We
12 encourage you to submit your comments for our
13 consideration in this development for the final EIS
14 decision document.

15 Before we begin, I would like to remind
16 you the importance of filling out those cards that
17 were available at the door. The cards serve two
18 purposes. First, they let us know that you're
19 interested in this project so we can keep you
20 informed by adding you to the project mailing list.

21 Second, they provide me a list of those
22 who will speak today. So if you did not complete a
23 card, but wish to speak or receive future
24 information regarding this project, please fill out

1 a card. And once again, it's available at the
2 registration desk.

3 One additional comment. We are here to
4 receive your comments, not to enter into any
5 discussion of those comments, or to reach any
6 conclusions. Any questions you have should be
7 directed to the record and not to the individuals
8 on the panel. Once the public hearing is closed,
9 and that includes the break, we will open a public
10 meeting where you will have an opportunity to ask
11 any questions, and be provided the answers by
12 representatives of the EPA or the Corps of
13 Engineers, and others associated with this project.

14 Thank you very much.

15 Ladies and gentlemen, our Hearing
16 Officer, Mel Cote.

17 MR. COTE: Thanks, Larry.

18 And good afternoon, everyone. As Larry
19 mentioned, my name is Mel Cote. I am the Manager
20 of the Water Quality Unit in the U.S. Environmental
21 Protection Agency's New England Regional Office,
22 and there are a couple other representatives with
23 EPA I wanted to acknowledge who are here today.
24 Walter Berry, from our Office of Research and

1 Development Lab here in Narragansett; and Doug
2 Pabst from our EPA Region 2 Office, both who have
3 been involved in the support of this project over
4 the past several years.

5 Thanks for coming to this public
6 hearing on the Draft Environmental Impact Statement
7 for the Rhode Island Region Long-Term Dredged
8 Material Disposal Site Evaluation Project. Whether
9 it's the voice of support for or concerns about,
10 the Federal action proposed in this Draft EIS are
11 simply to learn more about the project. We welcome
12 your participation.

13 On April 30th, EPA published a Federal
14 Register notice and issued a press release
15 announcing the availability of the Draft EIS for
16 public comment until June 21st, next Monday. We
17 posted the Draft EIS and the link to supporting
18 documents on our web site, and based on responses
19 to an inquiry that we sent to a large mailing list
20 of agencies, organizations and individuals, we
21 mailed either a Notice of Availability or
22 directions on how to access the Draft EIS, or an
23 executive summary of the document, or the complete
24 document to interested parties. This is consistent

1 with our ongoing efforts throughout the site
2 designation process to provide the public with
3 ample opportunity to get information about the
4 project, and to give us their feedback, and that's
5 why we are here today, to listen to and record any
6 comments that you may have on the Draft EIS.

7 Now, the EPA and the U.S. Army Corps of
8 Engineers jointly regulate dredged material
9 disposal under federal authorities provided under
10 section 404 of the Clean Water Act, and section 103
11 of the Marine Protection, Research and Sanctuaries
12 Act, or the Ocean Dumping Act. I will use the
13 shorter name throughout the rest of my address.
14 Section 404 of the Clean Water Act applies to
15 dredged material disposal in state waters, while
16 disposal in Federal waters is subject to the
17 rigorous sediment testing and disposal site
18 designation criteria, and site management and
19 monitoring plan requirements, of the Ocean Dumping
20 Act. Since this project is in Federal waters, only
21 the Ocean Dumping Act applies. In administering
22 these programs, we work closely with other Federal
23 resource management agencies like the National
24 Marine Fisheries Service and U.S. Fish and Wildlife

1 Service, Indian tribes and state environmental
2 agencies to ensure proper coordination and
3 consistency with statutory and regulatory
4 requirements, and environmental standards.

5 The Ocean Dumping Act authorizes the
6 Corps to select sites for short-term use, and EPA
7 to designate sites for long-term use. In 2001, the
8 Corps, in cooperation with EPA, exercised its Ocean
9 Dumping Act authority to select a dredged material
10 disposal site for the Providence River and Harbor
11 Maintenance Dredging Project, which is known as
12 Site 69B, and disposal operations from that project
13 began in April 2003. That site selection was
14 supported by an Environmental Impact Statement that
15 evaluated several options for the disposal of
16 Providence Harbor and River sediments. The Ocean
17 Dumping Act limits the availability of
18 Corps-selected sites for disposal activity to two
19 five-year periods. The first five-year period
20 begins with the first disposal activity - in this
21 case, April 2003 - and the second five-year begins
22 with the first disposal activity commencing after
23 completion of the first five-year period. Thus,
24 the Corps can select disposal sites only for

1 short-term, limited use; whereas, Congress
2 authorized EPA to undertake long-term site
3 designations, subject to ongoing monitoring
4 requirements to ensure that the sites remain
5 environmentally sound.

6 Periodic dredging and, therefore,
7 dredged material disposal are essential for
8 ensuring safe navigation and facilitating marine
9 commerce. EPA believes it's preferable from an
10 environmental perspective to dispose of dredged
11 material in only a few discrete locations so that
12 it can be more easily managed and monitored to
13 protect the marine environment. In the course of
14 selecting Site 69B for the Providence River
15 project, it was acknowledged that the short-term
16 availability of that site was insufficient to meet
17 the long-term dredging needs of the Rhode Island
18 region. With a continuing need for dredged
19 material disposal, and the impending expiration of
20 the short-term site selection for the Providence
21 River dredging project, the Corps was faced with
22 the prospect of having to continue to select new
23 disposal sites that could only be used for a
24 maximum of two five-year periods. In the

1 long-term, this could result in the proliferation
2 of disposal sites in the Rhode Island region. And
3 that is why we are here today.

4 In September 2000, EPA and the Corps
5 received a request from the Governor of Rhode
6 Island to evaluate the designation of one or more
7 long-term open water dredged material disposal
8 sites, citing the difficulties that navigational
9 facilities were experiencing due to a backlog of
10 maintenance dredging activities. This backlog
11 stemmed from the lack of environmentally acceptable
12 and cost-effective disposal options available to
13 the navigation community. Subsequent dredging
14 needs surveys conducted by the Corps and EPA
15 confirmed the need for a long-term disposal option.

16 The two agencies agreed to fulfill this
17 request and also agreed that, consistent with past
18 present -- past practice in designating disposal
19 sites, we would follow EPA's "Statement of Policy
20 for Voluntary Preparation of National Environmental
21 Policy Act (NEPA) Documents," and would prepare an
22 environmental impact statement to evaluate
23 different dredged material disposal options. EPA
24 and the Corps have tried to prepare this Draft EIS

1 to be consistent with EPA's NEPA-implementing
2 regulations as well as those promulgated by the
3 Council on Environmental Quality for additional
4 guidance.

5 So the two primary Federal laws under
6 which we are conducting this site designation
7 process are the Marine Protection, Research and
8 Sanctuaries Act, which among other things,
9 establishes criteria to identify a suitable
10 location for disposal sites; and the National
11 Environmental Policy Act, which requires federal
12 agencies to establish clear purpose and need for a
13 proposed federal action, evaluate various
14 alternative approaches to meet that need, and
15 choose the best, or the least environmentally
16 damaging, yet practicable alternative. Both
17 statutes require public participation in the
18 decision-making process.

19 Although EPA is the agency that is
20 authorized by the Ocean Dumping Act to designate
21 dredged material disposal sites, the Corps is
22 participating in the development of EIS as a
23 cooperating agency, because it has knowledge
24 concerning the needs of the dredging program, as

1 well as technical expertise in assessing the
2 environmental effects of dredging and dredged
3 material disposal. The Corps is also providing
4 technical and financial support in the development
5 of the EIS, but all final decisions
6 regarding -- regarding any site designations will
7 be made by EPA. To take advantage of expertise
8 held by other entities and to ensure compliance
9 with all applicable legal requirements, EPA also is
10 closely coordinating this effort with other federal
11 agencies, as I mentioned, the National Marine
12 Fisheries Service and Fish and Wildlife Service,
13 Indian tribal governments, state environmental and
14 coastal zoning management agencies and local
15 governments, some of which are participating as
16 cooperating agencies. EPA and the Corps also have
17 conducted extensive public participation
18 activities, including numerous workshops and
19 informational meetings to explain the process and
20 disseminate technical findings, and to solicit
21 feedback from the public to help guide the process.

22 We are here today to present
23 information on the Draft EIS that evaluates
24 long-term disposal options for the Rhode Island

1 region and to solicit feedback on this document and
2 the Federal action it proposes in the form of oral
3 or written comments. We encourage and welcome your
4 oral and written comments, but we will not be
5 responding to them during the public hearing
6 portion of today's proceedings. As Larry has
7 explained, there will be a question and answer
8 session dealing with the public meeting immediately
9 following this formal hearing. The comments we
10 receive will be given equal consideration upon
11 completion of the public comment period for the
12 purposes of finalizing the EIS and issuing final
13 rulemaking. The final EIS will include responses
14 to all the comments that we receive. EPA and the
15 Corps anticipate releasing the final environmental
16 impact statement in December this year, and if
17 recommended by the EIS, issuing a final rule that
18 will officially designate the site in early 2005.

19 For accuracy of the record, your
20 written comments should be sent to Olga Guza,
21 Project Manager for EPA, at the EPA New England
22 Regional Office and they will be accepted until
23 close of business next Monday, June 21st.

24 Thank you again for your participation

1 in this public hearing and for your interest in the
2 issue of dredged material management in the Rhode
3 Island region.

4 MODERATOR ROSENBERG: Ladies and
5 gentlemen, the Corps of Engineers Project Manager,
6 Mike Keegan.

7 MR. KEEGAN: Good afternoon.

8 As Larry indicated, I'm Mike Keegan. I
9 am the Corps of Engineers Project Manager for the
10 Rhode Island Region Long-Term Dredged Material
11 Disposal Site Evaluation Project. The purpose of
12 this project is to evaluate the feasibility of
13 designating a long-term disposal site to assist
14 both public and private navigational facilities in
15 meeting maintenance requirements to ensure safety,
16 and to meet the navigational needs of commercial
17 and private shipping, fishing and recreation
18 vessels.

19 The Corps of Engineers currently has 18
20 navigation projects in the State of Rhode Island
21 and 17 in Southeastern Massachusetts. These
22 projects we required to maintain a safe navigable
23 depth for vessels ranging from large cargo carriers
24 to recreational boats. Some of this material

1 dredged from the harbor is clean and suitable for
2 use as renourishment on beaches of the area, when
3 they are available. Other material is not
4 compatible for renourishment, because it has a
5 different grain size than the beach material.

6 Fairly recently, the Corps completed an
7 Environmental Impact Statement that selected an
8 ocean disposal site in Rhode Island Sound for the
9 disposal of material from the Providence River
10 Harbor to restore the federal channel to its
11 authorized depth, and eliminate the impacts that
12 shoaling has caused on the channel to commercial
13 shipping. This material must, according to federal
14 law, undergo a series of rigorous physical,
15 chemical and biological testing to prove its
16 suitability for placement in the Sound.

17 Although this selected site, called
18 69B, is currently available to meet some of the
19 short-term maintenance requirements in the Rhode
20 Island region, other navigation facilities in the
21 region have experienced a tremendous backlog in the
22 dredging needs to meet, because of limited
23 environmentally accepted and cost-effective
24 disposal options. It was because the amount of

1 time that was needed to conduct the Providence EIS
2 that the state believed it was prudent to attempt
3 to address the long-term needs of the area that
4 caused the Governor of Rhode Island to write a
5 letter to both the Corps of Engineers and the US
6 Environmental Protection Agency requesting that we
7 evaluate the feasibility of designation of a
8 long-term disposal site.

9 As Mel has mentioned, EPA is the agency
10 that has the authority to designate a long-term
11 disposal site. However, since the Corps has
12 extensive knowledge of dredging needs, has a
13 history on expertise of assessing the dredging and
14 disposal and its affects on the environment, EPA
15 requested that the Corps become a cooperating
16 agency in the conduct of this evaluation project.
17 Both agencies agree that updated information needed
18 to be acquired that could supplement historic
19 information, as well as data that was collected as
20 part of the Providence Project. Both agencies also
21 recognized the need to involve the public in every
22 aspect of this project.

23 In addition to conducting an extensive
24 literature review to collect all available

1 information on the project area, we have conducted
2 various field efforts to collect information on
3 physical oceanography, fish, lobster, shellfish
4 populations and tissue analysis. Benthic
5 information was collected and sediment analysis was
6 performed. In order to determine the current and
7 future dredging needs, we sent a survey to 450
8 navigation facilities in Rhode Island and in
9 Massachusetts to collect information on the
10 immediate and future dredging needs for both
11 maintenance and for expansion of current
12 facilities.

13 An investigation into the economic
14 importance of navigation-dependent facilities in
15 Rhode Island and Southeastern Massachusetts was
16 conducted, and we found that those industries
17 contributed 56,000 jobs and 3.4 billion annually to
18 the economy. We had three meetings with local
19 fishermen to find out where they fished, which
20 areas should be avoided in considering the location
21 of an alternative disposal site, and to determine
22 if there was a location that a disposal alternative
23 should be considered.

24 While the field investigations were

1 being conducted, economic analysis and dredging
2 needs work was being initiated. The project team
3 worked with the University of Rhode Island Coastal
4 Institute here in Narragansett to establish a
5 working group. This working group would assist us
6 in developing a screening criteria, and to help us
7 focus our evaluation efforts. The working group is
8 comprised of representatives of Federal, tribal,
9 state and local agencies, representatives of
10 lobster, shellfish, fishing organizations,
11 representatives of the shipping industry, local
12 universities, and other organizations that both had
13 an interest and an expertise on the project. The
14 coastal institute acted as facilitators to assist
15 the working group in identifying screening criteria
16 that they felt should be included in the initial
17 screening of the project area to eliminate areas
18 where dredging sites should not be considered
19 because of impacts to fisheries, shellfish or other
20 navigational and safety concerns. Later in the
21 hearing, a presentation will be made by Carlton
22 Hunt that will walk you through this screening
23 process and that criteria considered.
24 Throughout this project we have

1 attempted to present information as it's developed
2 to receive input back from the public and help us
3 focus our efforts. It is important that we receive
4 your input here today. As Larry will explain
5 shortly, the hearing process is somewhat of a
6 one-way communication. You provide input. We
7 record your comments and listen to your thoughts.
8 It's not designed to be a question and answer
9 process. That could be both frustrating to you and
10 to our project team. For that reason, following
11 the public formal session we will conduct a public
12 meeting where you can ask questions, and we'll
13 answer all your questions as best we can.

14 I want to thank you for your
15 involvement in the project, both in the past, and
16 for the taking the time to come here today. We
17 have been able to get to this stage, because of the
18 assistance of the public and the people who have
19 been on the working group. Local knowledge has
20 been an important component in our evaluation
21 process. I look forward to hearing your comments
22 today. I encourage you to also provide us any
23 additional comments you think of by the 21st to
24 EPA.

1 Now, for the presentation of the
2 screening process, I am going to ask Dr. Carlton
3 Hunt from Battelle to come up and give us the
4 PowerPoint presentation. Afterwards, if you would
5 like, a lot of the information for the screening is
6 on placards in the back, and when we get to the
7 public session, we'll be able to explain any other
8 questions you may have.

9 Carlton.

10 MR. HUNT: Thank you, Mike.

11 You heard the process. I'm going to
12 show you a little bit of results of process, if you
13 can hear me. Again, I am Carlton Hunt, and I am
14 under contract with the Corps of Engineers in
15 support of this project.

16 The objective today, and we have heard
17 a little bit of, it's basically to summarize the
18 process; secondly, to review the pertinent laws
19 that regulate this activity, and the regulations to
20 review the purpose and need. We're going to see
21 some data to show why the need is there, to
22 overview the screening process, summarize the
23 evaluation of the environmental and socioeconomic
24 impacts that the EIS address, and then present the

1 preferred alternative, and talk a bit about the
2 next steps.

3 The process began, as we've heard, in
4 2000, 2001, with the request to evaluate a
5 long-term disposal site in Rhode Island Sound, or
6 for the Rhode Island region. The Notice of Intent
7 went out. Scoping studies were held. A variety of
8 work group meetings were held, as you heard. There
9 were field efforts that were conducted as well, a
10 lot of mini literature searches to find data and
11 information in the region that we were of interest.

12 We are in this 45-day comment period.
13 As you heard also, we will finish the EIS once the
14 comments are received, and comments are addressed
15 and responses prepared, and changes to the document
16 that may need to be made are incorporated.

17 The laws you have heard about,
18 basically the Rivers and Harbor Act of 1899, Marine
19 Protection Research and Sanctuaries Act, which sets
20 the criteria for, and requirements for site
21 designation, the type of material that can go into
22 the ocean at these locations, and the authorization
23 process.

24 The Clean Water Act oftentimes is

1 brought forward. In this case, we're outside of
2 the three mile state limit for this designation
3 process; therefore, that act does not come into
4 force.

5 The purpose of the EIS, very
6 explicitly, was to evaluate one or more ocean sites
7 for potential designation as a long-term disposal
8 site for dredged material for the Rhode Island
9 region. On the screen you can see the area that we
10 began our study. You can see the Rhode Island/
11 Southeastern Massachusetts region. You've heard
12 why it was initiated, and why the need is there
13 from the government people in the state, as well as
14 nationally.

15 How do we get from this purpose to this
16 need identification to an actual designation?

17 First of all, we need to document the
18 need.

19 Second, we needed to figure out where
20 we could put this material at a large scale,
21 spacial scale, that is the Zone of Siting
22 Feasibility. We need to -- needed to identify
23 within that zone a candidate locations that we
24 could further evaluate in an EIS/NEPA process. We

1 also needed to define the alternatives that would
2 be carried forward.

3 Once that was done, then the evaluation
4 takes place and the EIS, describing in detail the
5 affected environment, both at a large scale, as
6 well as a site specific location scale, the
7 consequences of disposal at any one of these
8 locations, and then to select the preferred
9 alternative.

10 I will also indicate that a no action
11 alternative is required in NEPA, and that was
12 conducted. In this case, no action would be not to
13 be designate a site.

14 The dredging needs came about through
15 the survey that was mentioned previously. In that
16 survey, the universe of navigation-dependent
17 facilities was identified. A survey form was put
18 out asking what their dredging needs were, both
19 from a maintenance perspective, as well as new and
20 improved dredging. The chart on the screen shows
21 you the volumes that were estimated. I will point
22 you to the -- on the screen there are Federal
23 project volumes, as well as non-Federal project.
24 The value that we worked with within EIS was

1 8.7 million cubic yards over a 20 year life span
2 planning horizon. There is other information
3 applied. Those projects are not being carried
4 forward, to our knowledge; and therefore, our
5 planning horizon dealt with the known survey
6 return. In that survey, approximately 30 percent
7 of the people that were surveyed returned
8 information.

9 That information was put into a
10 geographic information base, and it was developed
11 into dredging centers to document the areas where
12 the most dredging needed to occur and where smaller
13 amounts of dredging needed to occur. This chart
14 simply shows the location, both in Rhode Island and
15 Southeastern Massachusetts, that were incorporated
16 into this study.

17 And as you can see, along the Rhode
18 Island area particularly, there are three areas
19 that there are large volumes anticipated over the
20 next 20 years. Similarly, up in the Buzzards Bay
21 area in Massachusetts, there are some large volume
22 areas.

23 There are a number of other smaller
24 volume areas. One thing I will say is that the

1 dredging needs does not consider -- we excluded
2 from the consideration any known dredging
3 activities that contribute dredged material for
4 beneficial use.

5 For example, beach nourishment. There
6 are a number of projects in the area that those
7 sediments do go for beach nourishment, so this
8 material is -- that we include in the number is
9 dredge material that would not necessarily be for
10 beneficial use.

11 Once that was determined to go forward,
12 if there was no need documented, then we would have
13 stopped the process. The fact that there was a
14 need demonstrated means that we move forward.

15 We needed to get into the Zone of
16 Siting Feasibility and the boundaries. There are
17 documents, guidance in place, both nationally and
18 internationally, as to what you need to consider.
19 The five major things that one considers are: The
20 political boundaries, navigation restrictions, type
21 of disposal equipment, cost of transporting the
22 material, and distance to the continental shelf.

23 That becomes important, because in the criteria for
24 site designation, there is one criteria that

1 suggests that disposal should occur off the
2 continental shelf, and that should be considered.

3 The other factors that were considered
4 are whether or not it's safe, it's safe and
5 practicable to transport material. That is a
6 consideration.

7 Safety is paramount. When you get into
8 the open ocean, as you know, storms can blow up,
9 and you can have situations develop where people
10 are put at risk; and therefore, safety is a prime
11 consideration.

12 And then also, we did map into this
13 process where the material would come from, as I
14 showed you in the previous slide.

15 This slide shows the -- what we also
16 did was then around each center where there was
17 dredging going to occur, we drew a 20 nautical mile
18 distance. That is a haul distance that we thought
19 was a practical distance. We then put concentric
20 circles around each of those sites to figure out
21 how far off shore we should be. We factored in all
22 the locations to include Block Island, as well as
23 the Vineyard and other areas in Southeastern
24 Massachusetts.

1 That process led to the -- on the
2 right, you see a screen that shows a blue line
3 extending from the Rhode Island/Connecticut border
4 to the Sound, and also it's east of New York State
5 waters. It extends off shore approximately 25
6 nautical miles. It then extends to the east to a
7 location off of Southeastern Massachusetts, and it
8 extends back into the Southeastern Massachusetts
9 area.

10 This region is a Zone of Siting
11 Feasibility where we thought we might be able to
12 find locations into which the dredged material
13 could be placed.

14 Once that was done, we had to do a
15 process to find what specific areas that we could
16 do -- locate these in and identify the specific
17 alternative sites. That effort focused on the five
18 general and 11 specific site designation criteria
19 that are included in the MPRSA.

20 Part of the process, as you heard
21 earlier, was to identify factors that support those
22 criteria, what kind of information would we need in
23 order to, in fact, make a judgment. Those include
24 such issues as sediment characteristics and

1 sediment quality, water quality, the biological
2 resources that might be affected, rare threatened
3 and endangered species, contaminant bioaccumulation
4 potential from the material, socioeconomic impacts,
5 air quality and noise associated with the proposed
6 activities, and then the geological setting and the
7 physical oceanography. Those are all factors that
8 we work with through the Rhode Island work group to
9 define and provide some specificity.

10 How did we get the data?

11 We performed a literature review where
12 there was no information; that data gaps were
13 filled by surveys. A variety of survey types were
14 conducted. We will describe briefly some of those
15 a little later in this presentation. That
16 information was put into a spacial geographic EIS
17 layers to show the overlay and show the
18 correspondence amongst the various information that
19 we gathered, and then what we did was prioritize
20 the MPR state criteria into a Tier 1 exclusionary
21 approach, that this was not reasonable -- on the
22 basis of that criteria, could not be reasonable to
23 put a dredged material disposal site.

24 After that was done, we did a second

1 tier where we began to focus in on specific areas,
2 and again followed a process of defining
3 exclusionary, those that would require some
4 discussion and those that would be in an acceptable
5 location. And I'm going to provide not all the
6 information, but just some representative
7 information.

8 The Zone of Siting Feasibility ruled
9 out areas beyond the continental shelf, primarily
10 for safety and cost reasons. An area of concern is
11 whether or not material placed in the ocean would
12 erode and be dispersed throughout the ocean. The
13 concept behind this particular site is to retain
14 the material within the site. Therefore, erosion
15 due to waves and winds and current action were an
16 important factor.

17 Areas of conflicting uses, if you have
18 anchorages, you don't necessarily want to have a
19 dredged material disposal site located in that
20 anchorage, because anchors could resuspend that
21 material, and also interfere with the actual
22 activity.

23 Reserves and science areas, for obvious
24 reasons, I think you do not want to go into a

1 science area that is being studied and cause a
2 perturbation by putting dredged material.

3 Beaches and amenities are to be
4 considered observation areas. Conservation areas
5 are considered exclusionary. Areas where there are
6 active military use, also, would be exclusionary.
7 And then historic or culturally-important features
8 in the ocean; for example, a known shipwreck that
9 has historic importance, or in the case of tribes,
10 if there were culturally important areas that might
11 be buried.

12 And then the last thing is threatened
13 and endanger species, critical habitat, which are
14 known in the Zone of Siting Feasibility that we
15 looked at.

16 This figure shows the -- basically the
17 depth contours, the darker blue area. The darker
18 it is, the deeper the water. Overlaying on top of
19 that is a transparent layer. That is the area
20 where we considered erosion was too high a
21 potential to locate a site. And you can see south
22 of Rhode Island, Southeast Massachusetts, an area
23 around Block Island and to the east at Cox's Ledge.
24 It's too shallow to put a disposal site there, so

1 those areas were excluded.

2 Just from a shipwreck perspective, this
3 is type of data that we gathered, and we are to
4 understand that there are vessels and shipwrecks.
5 Some folks died on those; therefore, those are
6 recreational activities that we did not want to
7 interfere with.

8 And then these are utilities. There
9 are a number of telephone and telecommunications
10 lines that are through -- run through the area, and
11 those areas are locations that we wanted to
12 exclude. We put a buffer zone around each of
13 those. That's why they look so wide on this
14 particular feature.

15 The squares that you see are also
16 military use areas; and to the east, I'll point out
17 no-man's land, which also is -- not only is it
18 military use, but it's also a reserve.

19 What we did is black out those areas,
20 and what you see in the blue, the black is what is
21 no longer feasible to put a site in. The blue is
22 where we considered further in Tier 2. That
23 consideration looked at minimizing impact of
24 fishing and fish habitats. It also looked at

1 shellfish resources. It looked at living
2 resources, from the spawning nursery, passage
3 perspective. It looked at navigation lanes, not
4 locations within navigation lanes of varied routes.
5 All that would interfere with normal navigation in
6 the area.

7 We also addressed a number of other
8 things that the regulations include that are
9 unexploded ordinance, use of historic dump sites or
10 disposal sites, benthic habitat types and also
11 cultural resources.

12 This is just an example of the fishing
13 information that we pulled together from a large
14 variety of sources. The hatching and gray
15 area -- modeled areas are areas that have been
16 identified by fishermen or other people as being
17 important places where they -- where fishing
18 activities occur. You will particularly note in
19 this deep channel area and the southern part of the
20 feasibility zone, fishermen had pointed out that
21 that is an important area for them, as well as
22 other areas around Block Island Sound. All of that
23 information was then factored in to -- from a
24 fishing perspective.

1 This particular chart shows some
2 very -- 20-year-old data that indicates where ocean
3 quahog are, in fact, abundant. The red means high
4 abundance, and the blue means there's a low
5 abundance. And so there are a number of areas
6 that -- of historic data set would suggest that we
7 would want to avoid, because we wouldn't want to
8 cover that resource.

9 This screening shows the navigation,
10 varying routes, and also the navigation channels
11 coming into both Narragansett Bay and Buzzards Bay.

12 When you screen out those, the black is
13 a clear screen out. We didn't want it to be in
14 there. The gray suggested we should not be in that
15 location. So just on the basis of Tier 2
16 screening, we found very few areas that were left.

17 The small blue areas in -- if we only
18 did Tier 2 screening, the small blue areas in
19 Block Island Sound might be available to us. And
20 then there were two or three other locations in the
21 eastern part of the zone, as well as one location
22 between the inbound and outbound navigation lines
23 to Narragansett.

24 When you combine the two screening

1 layers together, there are very few locations where
2 we could, in fact, locate or potentially locate a
3 dredged material disposal site. Highlighted in red
4 on the screen are the two areas, not the sites, but
5 two areas that were carried further into the EIS,
6 in terms of determining a specific one square
7 nautical mile location for comparing as an
8 alternative in the EIS.

9 There are some areas that were -- were
10 not considered further, the small blue area to the
11 east side, and then down in this deeper channel
12 area, south of Block Island Sound. Those are
13 considered -- not considered further because of
14 location with respect to fisheries resources.

15 These are -- this is a zoom in on those
16 specific areas. The eastern area is this oblong
17 area that in yellow is where we studied further.
18 And we also expanded the study zone around Site
19 69B, the light pink of 69B. The purple areas, new
20 areas that we studied further as a potential to see
21 if we could change the configuration of that
22 particular location.

23 Because Site E had very little data
24 available on it, a series of surveys were mounted a

1 year ago to look at the dymmetry, to look at the
2 bottom pipes. We used a site scan sonar. We
3 looked with a magnetometer for potential cultural
4 resources. We looked at erosion potential through
5 looking through current data, tidal data. We did a
6 series of sediment studies using a -- what is
7 called a sediment profile imaging technique, that
8 looks at both some physical characteristics of the
9 sediments, as well as biological characteristics,
10 and the rapid assessment technique that allows us
11 to map large areas very quickly. We, in addition,
12 looked at specific species that are through
13 traditional benthic graph samples.

14 Chemistry was conducted both grain
15 size, physical properties, as well as collected
16 metals as representative of potential areas where
17 there might or might not be high contaminant
18 levels. We did finfish and trawl surveys. We also
19 did a quahog survey, and we also looked at lobster
20 resources in those -- that specific area, in order
21 to get a balanced set of data to compare what was
22 Area E and Area W, and to focus in on the specific
23 one square nautical mile footprint.

24 Not to spend time, but you can look by

1 the color differences. This is Area E, and you can
2 see the sediment profile imagery. There is a
3 number of color changes. All of those color
4 changes are somewhat related to the grain size
5 type, so we were able to look at a large number of
6 locations and try to determine where best to locate
7 the site within this area.

8 That was done through a process of
9 comparing the data that we had generated. The
10 squares that are shown on this particular figure
11 show the specific locations that we tried to figure
12 out were the best, the one nautical mile square
13 footprint, the best location that we could come up
14 with. In the process, Area 3 site, or Location 3
15 on this site was chosen, and to carry forward with
16 the EIS it's in a relatively sandy area. It's away
17 from rough bottom areas where there are higher
18 lobster populations, so we tried to avoid that
19 lobster resource that's known to be out in that
20 region. It also avoided areas where trawling
21 occurs. Trawling occurs generally to the south of
22 this location.

23 Area W is the largest square we did the
24 slide scan survey. That is what is shown on this

1 particular figure. The area that we moved to, in
2 terms of carrying forward into the EIS, is the
3 green square. That green square delineates the
4 current 69B location.

5 This map shows the two sites in
6 relationship to each other within Rhode Island
7 Sound. And those, in fact, were the areas that we
8 carried forward. And to include, as I said
9 earlier, the no action alternative, we assessed
10 impacts of each alternative of putting material in
11 those sites. We made the judgment as to whether
12 that would be an impact, no impact. We qualified
13 the impact by speaking to minor impacts, and I will
14 speak a little bit more about what minor impacts
15 mean, or minimum impact.

16 The EIS that you have in front of you,
17 or hopefully had time to read, or gotten through
18 most of it, is 10 chapters.

19 Chapter 1 talks about purpose and need.

20 Chapter 2 talks about the alternatives
21 that were carried forward.

22 Chapter 3 is a very large chapter that
23 talks about the affected environment, what is its
24 physical conditions, what are its physical

1 traditions, what are the biological resources, what
2 are the biological organisms that are there, what's
3 the chemical condition of the sediments. A whole
4 suite of sets of information about this area.

5 Chapter 4 does the judgment call, in
6 terms of which of the alternatives are to be
7 carried forward. It looks at the consequences of
8 placing material there.

9 Chapters 5 through 8 basically are
10 information that is required as part of NEPA to
11 complete the EIS.

12 One more word. The appendices that are
13 there, it's required that the agencies provide a
14 site management and monitoring plan for any
15 designated site in that major appendix. It's in
16 there, if the site management monitoring plan that
17 is proposed. That is as important as the EIS, in
18 terms of looking at -- reviewing this document.

19 This chart, I won't spend a lot of time
20 on. The highlighted areas are those where we felt
21 there would be some level of impact. If it's not
22 highlighted, then our judgment call was no impact.
23 And for sediment and erosion, both Site E and F,
24 for example, had some small potential for erosion.

1 The currents are -- exist in the area, so you can
2 get some small minor potential.

3 Sediment quality, there is a minor
4 impact for both of those, simply because of the
5 material we put out there. It might be slightly
6 different than the native material that is located
7 in the site. It's primarily a grain size
8 situation. The testing eliminates material that
9 would be toxic, or potentially bioaccumulate
10 through the regional testing.

11 The benthos is considered to have a
12 minor impact, primarily because when you put
13 material, you will disrupt the bottom. You may
14 cover a few organisms, but it's reasonably well
15 documented in the literature and the other reports
16 that the benthic community in these locations does
17 recover. You get a stage sequence coming through
18 of rapidly colonizing organisms that over time
19 those organisms in that benthic community become
20 like the surrounding environment with grain sizes
21 similar. So, therefore, minor impact is a
22 short-term impact. There is recovery.

23 The same thing with lobster, fish and
24 other invertebrates. The judgment is is that when

1 you place material in the ocean, you may have an
2 immediate short-term impact, but by and large over
3 time those impacts go away; and, in fact, there is
4 no long-term effects on those resources.

5 Shipping and navigation, particularly
6 important, is taking no action on this. We have
7 some long-term impacts in terms of the ability to
8 move goods and services into Rhode Island, or into
9 Southeastern Massachusetts.

10 Importantly, as I said earlier, use of
11 previous disposal sites is called out in the
12 regulations, and because Site E is a location for
13 dredged material, and has never been placed, it's
14 considered to be an impact, because we would be
15 increasing the area of potential disturbance within
16 this region and, therefore, not a desirable
17 condition. However, for Site W, it's considered no
18 impact, because it is, in fact, an ongoing disposal
19 location.

20 Cumulative impacts for the same reason
21 is long-term cumulative, what might happen through
22 all activities that occur in Rhode Island Sound.
23 Designating E was considered to be not -- would
24 have an impact and, therefore, not desirable.

1 This is the preferred alternative. It
2 shows the benthic. The red colors on this
3 particular shot or slide or shallower depths that
4 have developed as a result of the ongoing disposal
5 in the location. I believe this figure is as of
6 early 2004.

7 The judgment call in the EIS was the
8 preferred alternative is Site W, and the reasons
9 are lower likelihood of sediment transport in that
10 particular location, the greater likelihood of
11 meeting water quality criteria. The currents and
12 the configuration of this site are such that one
13 can manage, or we can manage any potential for any
14 water quality effects.

15 The other reason for selecting it is it
16 reduces regional economic impacts by adding this
17 long-term disposal site designated. And the last
18 piece is that it is an active disposal site.

19 My last slide is to simply the next
20 steps. What you have already heard this morning
21 will be to receive the comments, review and respond
22 to those, publish the final EIS that addresses any
23 of the issues that are raised in that process, the
24 final rulemaking and complete the designation

1 process.

2 And I'm going to turn the hearing, I
3 think, back over to Larry. Thank you for your
4 time.

5 (Pause.)

6 MODERATOR ROSENBERG: Thank you,
7 Carlton.

8 Ladies and gentlemen, it is crucial to
9 this public process that your voice is heard, and
10 we're here to listen, to listen to your comments,
11 to understanding your concerns, and to provide you
12 an opportunity to put your thoughts on the record,
13 should you care to do so.

14 Any information you provide today is
15 important and will assist both the EPA and the
16 Corps in evaluating and developing the course of
17 action that the agencies will jointly recommend in
18 the future. And I would like to thank you in
19 advance for taking the time to provide us your
20 views.

21 This hearing will be conducted in a
22 manner so that all who desire to express their
23 views will be given an opportunity to so. To
24 preserve the right of all to express their views, I

1 ask that there be no interruptions. When you came
2 in, copies of the Public Notice of availability and
3 the procedures to be followed at this hearing were
4 available. If you did not receive these, they are
5 available at the desk as you walk in.

6 I will not read either of the
7 procedures or the notice of the availability, but
8 they will be entered into this record.

9 A transcript of this hearing is being
10 prepared, and a record will remain open, and
11 written comments may be submitted today, or by mail
12 by 5:00 p.m. on June 21, 2004. All comments
13 receive equal consideration.

14 If you know of anyone who cannot
15 attend, but who desires to provide written
16 comments, they should do so, and should forward
17 those comments to Olga Guza at the EPA's New
18 England Region office in Boston, Massachusetts.

19 Lastly, I would like to reemphasize
20 that the government has made no final decisions
21 with regards to this project. It is our
22 responsibility to fully evaluate all the
23 information available, including your input, prior
24 to developing the recommendation in the final EIS.

1 If there is no objection from the
2 Hearing Officer, I will now dispense with the
3 reading of the Public Notice of Availability, and
4 have it entered into this record.

5 MR. COTE: No objection, Larry.

6

7

* * * * *

8

9

 Public Notice of Availability
10 Draft Environmental Impact Statement (DEIS) for
11 Rhode Island Region Long-Term Dredged Material
12 Disposal Site Evaluation Project
13 April 30, 2004

14

15 The Draft Environmental Impact Statement for the
16 Rhode Island Region Long-Term Dredged Material
17 Disposal Site Evaluation Project (DEIS), the
18 Executive Summary, the Draft Site Management and
19 Monitoring Plan (SMMP) and the Proposed Rulemaking
20 (Rule) is available for public review and comments.

21

22 The DEIS is being released by the U.S. Environmental
23 Protection Agency, New England Region (EPA) in
24 cooperation with the U.S. Army Corps of Engineers,

1 New England District (Corps) and was prepared
2 consistent with the requirements of the National
3 Environmental Policy Act, and the Marine
4 Protection, Research, and Sanctuaries Act to
5 evaluate the potential environmental impacts
6 associated with the designation of open-water
7 dredged material disposal sites in the Rhode island
8 Region. We are soliciting and encouraging public
9 comments on the DEIS, SMMP and the Rule during the
10 public comment period that begins April 30, 2004
11 and closes on April 21, 2004 at 5:00 p.m. Please
12 send your written comments to:

13

14 Olga Guza
15 US EPA, New England Region
16 One Congress Street
17 Suite 1100, CWQ
18 Boston, MA 02114-2023
19 Facsimile to (617) 918-1505
20 Electronic Mail to: R1_RISEIS@EPAMAIL.EPA.GOV

21

22 Comments should be submitted in writing no later
23 than June 21, 2004 at 5:00 p.m. EPA and the Corps
24 will also be conducting two public hearings to

1 solicit and encourage comment on the DEIS and SMMP.

2 The date and location of the hearings are:

3

| 4 | Hearing #1 | Hearing #2 |
|----|---------------------------|---------------------------|
| 5 | June 15, 2004 | June 15, 2004 |
| 6 | Starting @ 1:00 p.m. | Starting @ 7:00 p.m. |
| 7 | Lighthouse Inn of Galilee | Lighthouse Inn of Galilee |
| 8 | 307 Great Island Road | 307 Great Island Road |
| 9 | (Galilee State Pier) | (Galilee State Pier) |
| 10 | Narragansett, RI 02882 | Narragansett, RI 02882 |

11

12 You also may review and/or obtain electronic copies
13 of the notice announcing the availability of the
14 DEIS at the EPA home page at the Federal Register
15 <http://www.epa.gov/fedrgstr/>. The DEIS, SMMP and
16 the Rule are available for review and/to obtain at
17 the following EPA Web Page address:

18 <http://www.epa.gov/region1/eco/ridrege/index.html>

19

20

* * * * *

21

22 Designation of the Rhode Island Region Dredged

23 Material Disposal Site in Rhode Island Sound

24

1

2 [Federal Register: April 30, 2004 (Volume 69,
3 Number 84)]

4 [Proposed Rules]

5 [Page 23706-23715]

6 From the Federal Register Online via GPO Access

7 [wais.access.gpo.gov]

8 [DOCID: fr30ap04-28]

9

10 ENVIRONMENTAL PROTECTION AGENCY

11 40 CFR Part 228

12 [FRL-7654-9]

13

14 Designation of the Rhode Island Region Dredged

15 Material Disposal Site in Rhode Island Sound

16

17 AGENCY: Environmental Protection Agency.

18 ACTION: Proposed rule.

19

20 SUMMARY: The Environmental Protection Agency (EPA)

21 is proposing today to designate the Rhode Island

22 Sound Disposal Site beginning (RISDS) in Rhode

23 Island Sound offshore of Rhode Island. This action

24 is necessary to provide a long-term dredged

1 material disposal site for the current and future
2 disposal of dredged material from Rhode Island,
3 Southeastern Massachusetts, and surrounding harbors
4 (hereinafter referred to as the Rhode Island
5 Region). The proposed site designation is for an
6 indefinite period of time. The RISDS will be
7 subject to continuing monitoring to ensure that
8 significant unacceptable, adverse environmental
9 impacts do not occur. The proposed action is
10 described in the Rhode Island Region Long-Term
11 Dredged Material Disposal Site Evaluation Project
12 Draft Environmental

13

14 [[Page 23707]]

15

16 Impact Statement (DEIS), and the monitoring plan is
17 described in the RISDS Site Management and
18 Monitoring Plan (SMMP). The SMMP is provided as
19 Appendix C of the DEIS. Site designation does not
20 itself actually authorize the disposal of any
21 particular dredged material at a site. Proposals
22 to dispose of dredged material at a designated site
23 are subject to project -- specific reviews and
24 authorization and still must satisfy the criteria

1 for ocean dumping.

2

3 DATES: Comments must be received by 5 p.m. on
4 June 21, 2004.

5 Public Hearing: The public hearings are
6 as follows:

7

- 8 1. June 15, 2004 at 1 p.m., Galilee, Rhode Island
- 9 2. June 15, 2004 at 7 p.m., Galilee, Rhode Island

10

11 ADDRESSES: Comments: Comments may be submitted by
12 mail or electronically as follows:

13 1. By mail: Submit written comments on this
14 document to: Ms. Olga Guza, U.S. Environmental
15 Protection Agency New England Region, One Congress
16 Street, Suite 1100 (CWQ), Boston, MA 02114-2023.
17 To ensure proper identification of your comments,
18 include in the subject line the name, date, and
19 Federal Register citation of this document.

20 2. Electronically: Submit your comments
21 electronically to: R1_RISEIS@EPAMAIL.EPA.GOV.
22 Electronic comments must be submitted as an ASCII
23 or WordPerfect file avoiding the use of special
24 characters and any form of encryption. Comments

1 will also be accepted on disks in WordPerfect or
2 ASCII file format sent or delivered to the
3 addresses above. All comments and data in
4 electronic form must be identified by the name,
5 date and Federal Register citation of this notice.
6 No confidential business information should be sent
7 via e-mail.

8 Public hearings: Both public hearings will
9 take place at:

10 1. Galilee, Rhode Island: Lighthouse Inn, 307
11 Great Island Road, Galilee, Rhode Island 02882.

12

13 FOR FURTHER INFORMATION CONTACT: Ms. Olga Guza,
14 U.S. Environmental Protection Agency New England
15 Region, One Congress Street, Suite 1100 (CWQ),
16 Boston, MA 02114-2023, telephone (617) 918-1542,
17 electronic mail: Guza.olga@epa.gov.

18

19 SUPPLEMENTARY INFORMATION: General information:

20

21 A. Regulated Entities

22 Entities potentially regulated by this action
23 are persons, organizations, or government bodies
24 seeking to dispose of dredged material into ocean

1 waters of Rhode Island Sound, under the Marine
 2 Protection Research and Sanctuaries Act, 33 U.S.C.
 3 1401 et seq. (Hereinafter referred to as the MPRSA)
 4 and its implementing regulations. This proposed
 5 rule is expected to be primarily of relevance to
 6 (a) parties seeking permits from the Corps to
 7 transport dredged material for the purpose of
 8 disposal into the waters of Rhode Island Sound and
 9 (b) to the Corps itself for its own dredged
 10 material disposal projects. Potentially regulated
 11 categories and entities that may seek to use the
 12 proposed RIR dredged material disposal site may
 13 include:

14 -----

| 15 | Category | Examples of potentially regulated entities |
|----|--|--|
| 16 | | |
| 17 | | |
| 18 | Federal Government..U.S. Army Corps of Engineers | Civil Works Projects, and other Federal agencies. |
| 19 | | |
| 20 | | |
| 21 | Industry and General | |
| 22 | Public.....Port Authorities, Marinas and | Harbors, Shipyards, and Marine Repair Facilities, Berth owners. |
| 23 | | |
| 24 | | |

1 State, local and
2 tribal governments..Governments owning and/or
3 responsible for ports, harbors,
4 and/or berths, Government
5 agencies requiring disposal of
6 dredged material associated
7 with public works projects.

8 -----

9 This table is not intended to be exhaustive,
10 but rather provides a guide for readers regarding
11 entities likely to be affected by this action.
12 This table lists the types of entities that could
13 potentially be regulated should the proposed rule
14 become a final rule. To determine whether your
15 organization is affected by this action, you should
16 carefully consider whether your organization is
17 subject to the requirement to obtain an MPRSA
18 permit in accordance with the Purpose and Scope of
19 40 CFR 220.1, and you wish to use the site subject
20 to today's proposal. EPA notes that nothing in
21 this proposed rule alters the jurisdiction or
22 authority of EPA or the types of entities regulated
23 under the MPRSA. Questions regarding the
24 applicability of this proposed rule to a particular

1 entity should be directed to the contact person
2 listed in the preceding FOR FURTHER INFORMATION
3 CONTACT section.

4 B. Background

5 In 1972, the Congress of the United States
6 enacted MPRSA to address and control the dumping of
7 materials into ocean waters. Title I of MPRSA
8 authorized EPA and the Corps to regulate dumping in
9 ocean waters. Regulations implementing MPRSA are
10 set forth at 40 CFR parts 220 to 229. With few
11 exceptions, the MPRSA prohibits the transportation
12 of material from the United States for the purpose
13 of ocean dumping except as may be authorized by a
14 permit or authorization (in the case of Corps
15 projects) issued under the MPRSA. The MPRSA
16 divides permitting responsibility between EPA and
17 the Corps. Under section 102 of the MPRSA, EPA has
18 responsibility for issuing permits for all
19 materials other than dredged material (e.g.,
20 vessels, fish wastes, burial at sea). Under
21 section 103 of the MPRSA, the Secretary of the Army
22 has the responsibility for issuing permits and
23 authorizations (in the case of Corps projects) for
24 the ocean dumping of dredged material. This

1 permitting authority has been delegated to the
2 District Engineer of the Corps New England
3 District. Determinations to issue permits and
4 authorizations (in the case of Corps projects) for
5 dredged material are subject to EPA review and
6 concurrence.

7 Section 102(c) of the MPRSA, as amended,
8 33 U.S.C. 1401 et seq., gives the Administrator of
9 EPA authority to designate sites and times where
10 ocean disposal, also referred to interchangeably as
11 ocean dumping, may be permitted. Section 103(b).
12 Further provides that the Corps should use such EPA
13 designated sites to the maximum extent feasible.
14 EPA's ocean dumping regulations provide that EPA's
15 designation of an ocean dumping site is accomplished
16 by promulgation of a site designation in 40 CFR
17 part 228 specifying the site. On October 1, 1986,
18 the Administrator delegated authority to designate
19 ocean dredged material disposal sites (ODMDS) to
20 the Regional Administrator of the EPA Region in
21 which the sites are located. The RISDS site is
22 located within New England (EPA New England);
23 therefore, this action is being taken pursuant to
24 the Regional Administrator's delegated authority.

1 EPA regulations (40 CFR 228.4 (e)(1)) promulgated
2 under the MPRSA require, among other things, that
3 EPA designate ocean dumping sites (ODMDS) by
4 promulgation in 40 CFR part 228. Designated ocean
5 dumping sites are codified at 40 CFR 228.15. This
6 rule proposes to designate a site for open water
7 disposal of dredged material. This site is
8 currently being used under the

9

10 [[Page 23708]]

11

12 authority of MPRSA section 103 as site 69B and is
13 located in ocean waters of Rhode Island Sound
14 approximately 9 nautical miles (nmi) south of Point
15 Judith, Rhode Island.

16 The RISDS is being proposed in this action to
17 provide a long-term disposal option for the Corps
18 to maintain deep-draft, international commerce and
19 navigation through authorized Federal navigation
20 projects and to ensure safe navigation for public
21 and private entities.

22 The RISDS will be subject to continuing site
23 management and monitoring to ensure that
24 unacceptable, adverse environmental impacts do not

1 occur. The management of the RISDS is further
2 described in the draft SMMP (Appendix C of the
3 DEIS). Documents being made available for public
4 comment by EPA at this time include this proposed
5 rule, DEIS, and Draft SMMP (Appendix C of DEIS).

6 The designation is being proposed in
7 accordance with 40 CFR 228.4(e) of the Ocean
8 Dumping Regulations, which allow EPA to designate
9 ocean sites for disposal of dredged materials.

10

11 C. EIS Development

12

13 Section 102(c) of the National Environmental
14 Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq.,
15 requires that Federal agencies prepare an
16 Environmental Impact Statement (EIS) on proposals
17 for major Federal actions significantly affecting
18 environmental quality. The objective of NEPA is to
19 build into agency decision-making process careful
20 consideration of all environmental aspects of
21 proposed actions, including evaluation of
22 reasonable alternatives to the proposed action.

23 While NEPA does not apply to EPA activities in
24 designating ocean disposal sites under the MPRSA,

1 EPA has voluntarily agreed as a matter of policy to
2 conduct a NEPA environmental review in connection
3 with ocean dumping site designations. (See 63 FR
4 58045 (October 29, 1998), "Notice of Policy and
5 Procedures for Voluntary Preparation of National
6 Environmental Policy Act (NEPA) Documents.")
7 Consistent with this policy, EPA, in cooperation
8 with the Corps, has prepared a DEIS entitled,
9 "Rhode Island Region Long-Term Dredged Material
10 Disposal Site Evaluation Project" which considers
11 the environmental aspects of site designation in
12 ocean waters of Rhode Island Sound. A Notice of
13 Availability of the DEIS for public review and
14 comment is being published concurrently with this
15 proposed rule in today's Federal Register. Anyone
16 wishing to review a copy of the DEIS may do so in
17 one of the ways described above (see ADDRESSES).
18 The public comment period for the DEIS will close
19 on June 21, 2004. The public comment period on the
20 proposed rule publication will also close on
21 June 21, 2004. Comments may be submitted by one or
22 more of the methods described above.

23 The purpose of the proposed action is to
24 designate an ocean disposal site that will meet the

1 long-term dredged material disposal needs in the
2 RIR. The appropriateness of ocean disposal for any
3 specific, individual dredging project is determined
4 on a case-by-case basis under the permit and
5 authorization (in the case of Corps projects)
6 process under MPRSA.

7 Designation of an ocean disposal site under
8 40 CFR part 228 is essentially a preliminary,
9 planning measure. The practical effect of such a
10 designation is only to require that if future ocean
11 disposal activity is permitted and/or authorized
12 (in the case of Corps projects) under 40 CFR part
13 227, than such disposal shall normally be
14 consolidated at the designated sites (See 33 U.S.C.
15 1413 (b)). Designation of an ocean disposal site
16 does not authorize any actual disposal and does not
17 preclude EPA or the Corps from finding available
18 and environmentally preferable alternative means of
19 managing dredged materials, or from finding that
20 certain dredged material is not suitable for ocean
21 disposal under the applicable regulatory criteria.
22 Nevertheless, EPA has determined that it is
23 appropriate to designate an ocean disposal site for
24 dredged material in the ocean waters of Rhode

1 Island Sound now, because it appears unlikely that
2 feasible alternative means of managing dredged
3 material will be available to accommodate the
4 projected dredged material of this region in the
5 future.

6 Proposals for the ocean disposal of dredged
7 materials from individual projects are evaluated by
8 EPA New England and the Corps' New England District
9 on a case-by-case basis, taking into account all
10 the alternatives available at the time of
11 permitting. Beneficial reuse alternatives will be
12 preferred over ocean disposal whenever they are
13 practicable.

14 The DEIS describes the purpose and need for
15 the proposed action and evaluates a number of
16 alternatives to this action. EPA's analysis of
17 alternatives considered several different potential
18 ocean disposal sites for dredged material from
19 Rhode Island, southeastern Massachusetts, and
20 surrounding harbors, as well as potential
21 alternative means of managing these dredged
22 materials other than ocean disposal. As described
23 in the DEIS, the initial screening effort was
24 established to consider the most environmentally

1 sound, economically and operationally feasible area
2 for site designation.

3 Alternatives evaluated included various marine
4 sites, upland disposal, beneficial uses, and the
5 no-action alternative.

6 In addition to considering reasonable
7 distances to transport dredged material, the ocean
8 disposal analysis considered areas of critical
9 resources as well as areas of incompatibility for
10 use as a disposal site. This included but was not
11 limited to such factors as the sensitivity and
12 value of natural resources, geographically limited
13 habitats, fisheries and shellfisheries, natural
14 resources, shipping and navigation lanes, physical
15 and environmental parameters, and economic and
16 operational feasibility. The analysis was carried
17 out in a tiered process. The final tier involved
18 further analysis of the no-action alternative and
19 the following alternative sites: Site E and Site W
20 (the proposed RISDS). These sites were evaluated
21 and the RISDS was selected as the preferred
22 alternative for potential ocean disposal site
23 designation. Management strategies were developed
24 for the preferred alternative and are described in

1 the draft SMMP (Appendix C of the DEIS).

2 To obtain public input during the process, EPA
3 and the Corps held public scoping meetings,
4 meetings with local fishermen, as well as convened
5 an EIS working group. The purpose of the working
6 group was to assist in identifying and prioritizing
7 initial screening criteria that assisted in the
8 evaluation of the best long-term dredged material
9 disposal options for the RIR. Representatives from
10 state, local, tribal and Federal agencies were
11 invited to participate in the working group as well
12 as individuals representing other interests. The
13 working group assembled for a series of 7 meetings
14 between September 26, 2002 and November 19, 2003.
15 Comments received were factored into the
16 development of the DEIS. The NEPA process led to
17 the current proposal that RISDS be designated as an
18 ocean dredged material disposal site.

19

20 D. Proposed Sites Description

21 Today's proposal would designate the RISDS. A
22 DEIS and draft SMMP have been prepared for the
23 RISDS and are available for review and comment by
24 the public. Copies may be obtained by request from

1 the FOR FURTHER INFORMATION CONTACT listed in the
2 introductory section to this proposed rule. Use of
3 the RISDS would be subject to any restrictions
4 included in the site designation and the approved
5 SMMP. These restrictions will be based on a

6

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8

9 thorough evaluation of the proposed sites pursuant
10 to the Ocean Dumping Regulations and potential
11 disposal activity as well as consideration of
12 public review and comment.

13 The RISDS proposed for long-term designation
14 by EPA is currently being used by the Corps' under
15 their short-term site selection authority as Site
16 69B. Overall, Site 69B has received approximately
17 2.8 million cubic yards since 2003. The RISDS is
18 in the exact same location and the same size as
19 Site 69B. The site is a square area, approximately
20 1 nautical mile by 1 nautical mile, for a size of
21 1-nmi². The RISDS is located approximately 9 nmi
22 south of Point Judith, Rhode Island and
23 approximately 6.5 nmi east of Block Island, Rhode
24 Island, with depths from 115 to 128 feet (35 to 39
m).

1 The sediments at the site range from glacially
2 derived till to soft, silty sand. The coordinates
3 (North American Datum 1983: NAD 83) for the
4 proposed RISDS site, are as follows: 41[deg]14'21" N,
5 71[deg]23'29" W; 41[deg]14'21" N, 71[deg]22'09" W;
6 41[deg]13'21" N, 71[deg]23'29" W; 41[deg]13'21" N,
7 71[deg]22'09" W.

8

9 E. Analysis of Criteria Pursuant to the Ocean
10 Dumping Act Regulatory Requirements

11

12 Five general criteria are used in evaluating
13 possible dredged material disposal sites for
14 long-term use under the MPRSA (see 40 CFR 228.5).

15

16 General Criteria (40 CFR 228.5)

17

18 1. Minimize interference with other
19 activities, particularly avoiding fishery areas or
20 major navigation areas (40 CFR 228.5(a)). The
21 first of the five general criteria requires that a
22 determination be made as to whether the site or its
23 use will minimize interference with other uses of
24 the marine environment. For this proposed rule, a

1 determination was made to overlay individual uses
2 and resources over GIS bathymetry and disposal site
3 locations. This process was used to visually
4 determine the maximum and minimum interferences
5 with other uses of the marine environment that
6 could be expected to occur. Areas that would
7 interfere with other activities, particularly
8 fishing and navigation, were eliminated from
9 further consideration. Sites E and W were the only
10 areas left for consideration. The RISDS (site W)
11 showed minimum interference with other activities
12 and was thus selected for this proposal. The
13 proposed site is not in an area of distinctive
14 lobster, shellfish, or finfish resources and thus
15 will not interfere with lobster or fishing
16 activities. The proposed site is not located in
17 shipping lanes or major navigation areas, is not in
18 a geographically limited fishery area, and has been
19 selected to minimize interference with fisheries,
20 shellfisheries and regions of commercial or
21 recreational navigation.

22 2. Minimize changes in Water Quality.

23 Temporary water quality perturbations (during
24 initial mixing) caused by disposal operations would

1 be reduced to normal ambient levels before reaching
2 areas outside of the disposal site (40 CFR 228.5 (b)).
3 The second of the five general criteria requires
4 that locations and boundaries of disposal sites be
5 selected so that temporary changes in water quality
6 or other environmental conditions during initial
7 mixing caused by disposal operations anywhere
8 within a site can be expected to be reduced to
9 normal ambient seawater levels or to undetectable
10 contaminant concentrations or effects before
11 reaching beaches, shorelines, sanctuaries, or
12 geographically limited fisheries or shellfisheries.
13 The proposed site will be used only for dredged
14 material disposal of suitable sediments as
15 determined by application of MPRSA criteria. Based
16 on data evaluated as part of the DEIS, disposal of
17 either sandy or fine-grained material would have no
18 long-term impact on water quality at the proposed
19 site. In addition, dredged material deposited at
20 the RISDS will not reach any marine sanctuary,
21 beach, or other important natural resource area.
22 Further, disposal at the RISDS will be managed and
23 monitored in accordance with the SMMP (Appendix C
24 of the DEIS) such that there will be no temporary

1 perturbations in water quality anywhere outside the
2 site or within the site after allowance for initial
3 mixing.

4 3. Interim Sites Which Do Not Meet Criteria
5 (40 CFR 228.5 (c)). There are no interim sites to
6 be considered under this criterion. The RISDS
7 (formerly known as Site 69B) is not an interim site
8 as defined under the Ocean Dumping Regulations.

9 4. Size of sites (40 CFR 228.5 (d)). The
10 fourth general criterion requires that the size of
11 open water disposal sites be limited to localize
12 for identification and control any immediate
13 adverse impacts and to permit the implementation of
14 effective monitoring and surveillance programs to
15 prevent adverse long-range impacts. Size,
16 configuration and location is to be determined as
17 part of the disposal site evaluation. For this
18 proposed rule, EPA has determined, based on the
19 information presented in the DEIS, that the RISDS
20 (formerly known as Site 69B) has been sized to
21 provide sufficient capacity to accommodate material
22 dredged from within the RIR. The site management
23 and monitoring plan is described in the RISDS SMMP
24 (Appendix C of the DEIS).

1 5. EPA must, wherever feasible, designate
2 dumping sites beyond the edge of the continental
3 shelf and where historical disposal has occurred
4 (40 CFR 228.5 (e)). The fifth criterion requires
5 EPA, wherever feasible, to designate ocean dumping
6 sites beyond the edge of the continental shelf and
7 at other such sites that have historically been
8 used. Sites beyond the edge of the continental
9 shelf are not economically feasible due to the
10 extended travel time and associated expense. In
11 addition, the proposed site, if designated,
12 encompasses the footprint of Site 69B, currently in
13 use. Thus, the proposed disposal site is
14 consistent with this criterion.

15 As discussed briefly above, EPA has found that
16 the RISDS satisfies the five general criteria
17 described in 40 CFR 228.5 of the EPA Ocean Dumping
18 Regulations. More detailed information relevant to
19 these criteria can be found in the DEIS and SMMP.

20 In addition to the general criteria discussed
21 above, 40 CFR, 228.6 (a) lists eleven specific
22 factors to be used in evaluating a proposed
23 disposal site under the MPRSA to assure that the
24 five general criteria are met. The RISDS, as

1 discussed below, is also acceptable under each of
2 the 11 specific criteria. The evaluation of the
3 preferred disposal site relevant to the 5 general
4 and 11 specific criteria is discussed in
5 substantially more detail in the DEIS and SMMP.

6

7 Specific Criteria (40 CFR 228.6)

8

9 1. Geographical Position, Depth of Water,
10 Bottom Topography and Distance From Coast (40 CFR
11 228.6 (a)(1)). The RISDS is in the same location
12 and is the same size as Site 69B . The RISDS will
13 replace Site 69B. The site is a square area,
14 approximately 1 nautical mile by 1 nautical mile,
15 for a size of 1-nmi². The RISDS is located
16 approximately 9 nmi south of Point Judith, Rhode
17 Island and approximately 6.5 nmi east of
18 Block Island, Rhode Island, with depths from 115 to
19 128 feet (35 to 39 meters). The sediments at the
20 site range from glacially derived till to soft,
21 silty sand. Water depths in the surrounding areas
22 are between 110 and 118 feet to the north, east,
23 and south of the site. The southeastern portion of
24 the site shoals more rapidly than the northern

1 area. The coordinates (North American Datum 1983:
2 NAD 83) for the proposed RISDS site, are as
3 follows: 41[deg]14'21" N, 71[deg]23'29" W; 41[deg]
4 14'21" N, 71[deg]22'09" W; 41[deg]13'21" N,
5 71[deg]23'29" W; 41[deg]13'21" N, 71[deg]22'09" W.

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9 2. Location in Relation to Breeding,
10 Spawning, Nursery, Feeding, or Passage Areas of
11 Living Resources in Adult Or Juvenile Phases
12 (40 CFR 228.6(a)(2)). The Corps and EPA initiated
13 informal Endangered Species Act (ESA) and Essential
14 Fish Habitat (EFH) consultation in January 2003 and
15 formal consultation with publication of the DEIS in
16 coordination with the National Marine Fisheries
17 Service (NMFS) and U.S. Fish and Wildlife Service
18 (USFWS). Additional coordination was conducted
19 with the Commonwealth of Massachusetts and State of
20 Rhode Island. Through these efforts, data has been
21 obtained on current threatened or endangered
22 species in the RIR. The plankton community at the
23 RISDS includes zooplankton (copepods, larval forms
24 of many species of invertebrates and fish,

1 Foraminifera, and Radiolara) and phytoplankton
2 (diatoms diatoms and dinoflagellates). These
3 organisms display a range of abundance by season.
4 The populations at or near the proposed site are
5 not unique to the site and are present over most of
6 the RIR. It is expected that although small,
7 short-term entrainment losses may occur immediately
8 following disposal, no long term, adverse impacts
9 to organisms in the water column will occur.

10 The benthic community at the RISDS is
11 comprised primarily of Annelida, Crustacea, and
12 Mollusca. It is expected that short-term reduction
13 in abundance and diversity at the sites may occur
14 immediately following disposal, but long term,
15 adverse impacts to benthic organisms are not
16 expected to occur. Recovery to levels similar to
17 predisposal is expected within a few years after
18 disposal.

19 The RISDS is located in the ocean waters of
20 Rhode Island Sound, which is occupied by more than
21 116 fish species. Seven species appear consistently
22 dominant among all trawl surveys. These were scup,
23 butterfish, longfin squid, little skate, winter
24 flounder, silver hake, and red hake. Atlantic

1 herring, Atlantic mackerel, and ocean pout were
2 also very abundant. It is expected that impacts to
3 finfish resources will consist of short-term, local
4 disruptions and the potential loss of some
5 individual fish of certain nonmigratory species.
6 Most of the finfish species are migratory. Several
7 commercially harvestable species of shellfish occur
8 in the RIR. They are Atlantic surf clams, blue
9 mussels, lobster, northern quahogs, ocean quahogs,
10 sea scallops, razor clams, and whelks. It is
11 expected that impacts to shellfish within the RISDS
12 will be short-term and associated with disposal,
13 burial and loss of habitat or food. No impacts to
14 shellfish or finfish resources are anticipated
15 outside of the RISDS.

16 Many different types of resident, migratory,
17 and coastal birds may potentially use the RIR as a
18 feeding habitat or resting source. Dozens of
19 marine and coastal birds migrate through Rhode
20 Island Sound annually. In addition, the RIR
21 provides limited habitat for most marine mammals
22 and reptiles. The species that are frequent or
23 occasional visitors to RIR are harbor porpoises,
24 white-sided dolphins, minke whales, seals, (harbor,

1 hooded, and harp) and sea turtles (green, Kemp's
2 ridley, loggerhead, leatherback, and hawksbill).

3 There are 16 federally listed threatened and
4 endangered species and 5 species of "special
5 concern" which may occur within the area of the
6 RISDS. The threatened and endangered species are:
7 Whales (humpback, fin, northern right, sperm, blue,
8 and sei), turtles (loggerhead, green, Kemp's
9 ridley, leatherback, and hawksbill), birds (bald
10 eagle, piping plover, and roseate tern), and
11 insects (American burying beetle and northeastern
12 beach tiger beetle). The species of "special
13 concern" are: common loon, common tern, arctic
14 tern, least tern, and Leach's storm-petrel.
15 Occurrence of these species varies by season. Use
16 of the site by whales and birds would be
17 incidental. The presence of sea turtles may occur
18 in the RISDS during the summer and fall. It is not
19 expected that disposal activities would have any
20 significant adverse effect on these species or
21 their critical habitat. With respect to endangered
22 and threatened species, informal consultation was
23 conducted with the U.S. Fish and Wildlife Service
24 (USFWS) and the National Marine Fisheries Service

1 (NMFS). In 2001 EPA prepared a Biological
2 Assessment (BA) for selection of Site 69B, which is
3 in the exact same location as the RISDS. The USFWS
4 and NMFS concurred with EPA's determination that
5 species under its jurisdiction would not likely be
6 adversely affected by the proposed action. The BA
7 concludes that the proposed action is not likely to
8 affect the threatened and endangered species. EPA
9 reinitiated threatened and endangered species
10 consultation with NMFS and USFWS as part of the
11 designation process of the RISDS. NMFS concurred
12 on April 8, 2004 and USFWS concurred on April 1,
13 2004 that there are unlikely to be any effects on
14 threatened or endangered species or their critical
15 habitat as a result of the proposed action. The BA
16 is available upon request by contacting the person
17 listed in the FOR FURTHER INFORMATION CONTACT
18 section.

19 The RIR provides Essential Fish Habitat (EFH)
20 for 33 finfish and 5 invertebrate species, mostly
21 for adults and juveniles. All of the species occur
22 along the northeastern Atlantic Coast of the United
23 States and have EFH designated for waters other
24 than those within the RIR. In 2001, an EFH

1 assessment was prepared for the selection of Site
2 69B. The EFH assessment concludes that the
3 proposed action is not likely to affect those
4 waters and substrate necessary to fish for
5 spawning, breeding, feeding, or growth to maturity.
6 EPA reinitiated EFH consultation with NMFS as part
7 of the designation process of the RISDS. NMFS
8 concurred on April 8, 2004 that the proposed action
9 is not likely to effect those waters and substrate
10 necessary to fish for spawning, breeding, feeding,
11 or growth to maturity. EPA has incorporated NMFS
12 recommendations into the draft SMMP (Appendix C of
13 the DEIS). The EFH assessment is available upon
14 request by contacting the person listed in the FOR
15 FURTHER INFORMATION CONTACT section. The RISDS is
16 not located in areas that provide limited or unique
17 breeding, spawning, nursery, feeding, or passage
18 areas.

19 3. Location in Relation to Beaches and Other
20 Amenity Areas (40 CFR 228.6(a)(3). The RISDS is
21 located approximately 8.3 nmi from the nearest
22 beach or other amenity area. Modeling and sediment
23 transport studies indicate a very low probability
24 of that any dredged material remaining in the water

1 column following disposal would be transported more
2 than 1 nmi. Plumes would be reduced to background
3 concentrations shortly after disposal. Given the
4 rapid dissipation characteristics of dredged
5 material plumes and that the vast majority of
6 released materials settle to the bottom near the
7 release point, dredged material placed at the RISDS
8 would not adversely affect beaches or similar
9 amenities. As such, it is expected that impacts
10 would not occur to beaches, areas of special
11 concern, parks, natural resources, sanctuaries or
12 refuges since they are either land-based or farther
13 than 8.3 nmi from the proposed disposal site.
14 There are also no marine sanctuaries or limited
15 fisheries or shellfisheries at or near the RISDS.
16 Therefore, EPA has determined that dredged material
17 disposal at the RISDS disposal site location should
18 not have any adverse effect on beaches or other
19 amenity areas, including wildlife refuges or other
20 areas of biological or recreational significance.

21 4. Types and Quantities of Wastes Proposed to
22 be Disposed of, and Proposed Methods of Release,
23 Including
24

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2

3 Methods of packing the Waste, if any (40 CFR
4 228.6(a)(4)). The RISDS has an expected capacity
5 of approximately 20 million cubic yards. However,
6 there is no disposal site capacity volume
7 restriction. The composition of dredged material
8 to be disposed at the site is expected to be
9 typical estuarine sediments dredged from channels,
10 berths, and marinas from harbors and Federal
11 navigation areas within the RIR. The disposal of
12 this material shall occur at designated bouys or
13 coordinates and would be expected to be placed so
14 as to concentrate material from each disposal.
15 This placement is expected to help minimize bottom
16 impacts to benthic organisms. EPA will make a
17 suitability determination prior to the USACE
18 issuing any MPRSA permit or authorization (in the
19 case of Corps projects) for disposal at the RISDS.
20 The site proposed to be designated will receive
21 dredged materials determined to be suitable for
22 ocean disposal that are transported by either
23 government or private contractor hopper dredges or
24 ocean-going bottom-dump barges towed by tugboat.

1 Both types of equipment release the material at or
2 very near the surface. Dredged material placed at
3 the RISDS would not be containerized or packaged.

4 Furthermore, it should be emphasized that the
5 RISDS is being proposed for designation only to
6 receive dredged material; disposal of other types
7 of material at these sites will not be allowed. It
8 should also be noted that the disposal of certain
9 other types of material is expressly prohibited by
10 the MPRSA and EPA regulations (e.g., industrial
11 waste, sewage sludge, chemical warfare agents).
12 See, e.g., 33 U.S.C. 1414b; 40 CFR 227.5(b). For
13 these reasons, no significant adverse impacts are
14 expected to be associated with the types and
15 quantities of dredged material that may be disposed
16 at the RISDS.

17 5. Feasibility of Surveillance and
18 Monitoring (40 CFR 228.6(a)(5)). Surveillance of
19 the site can be accomplished by boat, helicopter,
20 disposal inspectors aboard barges, scows, and
21 tugboats, or through radar or satellite. This
22 effort would be conducted jointly by the EPA,
23 Corps-New England District, and the U.S. Coast
24 Guard. Monitoring and surveillance are expected to

1 be feasible at the RISDS. The site is readily
2 accessible for bathymetric surveys and has
3 undergone monitoring, including side-scan sonar.
4 If field monitoring of the disposal activities is
5 required because of a future concern for habitat
6 changes or limited resources, a management decision
7 will be made by EPA New England and the Corps-New
8 England District who share the responsibilities of
9 managing and monitoring the disposal sites. EPA
10 and the Corps have prepared a draft RISDS SMMP
11 (Appendix C of the DEIS). Once the proposed site
12 is designated, monitoring shall be completed in
13 accordance with the then-current SMMP. It is
14 expected that revisions to the SMMP may be made
15 periodically; revisions will be circulated for
16 review, coordinated with the affected States and
17 become final when approved by EPA New England
18 Region in conjunction with the Corps' New England
19 District. See 33 U.S.C. 1413(c)(3).

20 6. Dispersal, Horizontal Transport and
21 Vertical Mixing Characteristics of the area,
22 Including Prevailing Current Direction and
23 Velocity, if any (40 CFR 228.6(a)(6)). The RISDS
24 is located within the ocean waters of Rhode Island

1 Sound, a water body that is exposed to wind and
2 wave energy from the northwest Atlantic Ocean. The
3 dominant tidal flow directions are northwest and
4 southeast. The amplitude of the tidal velocity
5 decreases with depth (12.7 cm/s at the surface and
6 7 cm/s near the bottom. The mean current velocity
7 was 2.5 cm/s directed toward the west at mid-depth
8 and 1.6 cm/s toward the west at the bottom. A
9 modeling study performed as part of the Providence
10 River and Harbor Maintenance Dredging Project EIS,
11 examined the likelihood of erosion and transport of
12 cohesive sediments proposed for placement at Site
13 69B (the proposed RISDS), located at a depth of 128
14 feet. It is concluded that a disposal mound placed
15 at 69B would not be dispersive under any conditions
16 other than the most severe (50-year return period)
17 hurricane; their results, however, were based on an
18 assumption of extremely cohesive material and
19 should therefore be viewed as potentially
20 underpredicting erosion. Areas of the ZSF between
21 170 and 105 ft, including the north-central portion
22 northeast of Block Island, were depositional areas
23 with some infrequent sorting and reworking by waves
24 and currents. The deepest areas here were the most

1 depositional.

2 It is expected that peak wave induced bottom
3 orbital velocities are not sufficient to cause
4 significant erosion of dredged material at the
5 RISDS. For these reasons, EPA has determined that
6 the dispersal, transport, and mixing
7 characteristics and current velocities and
8 directions at the RISDS are appropriate for
9 designation as a dredged material disposal site.

10 7. Existence and Effects of Current and
11 Previous Discharges and Dumping in the Area
12 (including Cumulative Effects) (40 CFR 228.6(a)(7)).
13 The RISDS is currently being used for disposal
14 activity pursuant to the Corps' short-term site
15 selection authority under section 103(b) of the
16 MPRSA. 33 U.S.C. 1413(b) as Site 69B. This
17 generally makes the RISDS preferable to more
18 pristine sites that have either not been used or
19 have been used in the more distant past. See 40
20 CFR 228.5(e). Beyond this, however, EPA's
21 evaluation of data and modeling results indicates
22 that these past disposal operations have not
23 resulted in unacceptable or unreasonable
24 environmental degradation, and that there should be

1 no significant adverse cumulative environmental
2 effects from continuing to use the RISDS on a
3 long-term basis.

4 8. Interference With Shipping, Fishing,
5 Recreation, Mineral Extraction, Desalination, Fish
6 and Shellfish Culture, Areas of Special Scientific
7 Importance and Other Legitimate Uses of the Ocean
8 (40 CFR 228.6(a)(8)). In evaluating whether
9 disposal activity at the RISDS could interfere with
10 shipping, fishing, recreation, mineral extraction,
11 desalination, areas of scientific importance and
12 other legitimate uses of the ocean, EPA considered
13 both the direct effects from depositing dredged
14 material on the ocean bottom at the proposed sites
15 and the indirect effects associated with increased
16 vessel traffic that will result from transportation
17 of dredged material to the RISDS. Area that
18 concern the criteria of this section were removed
19 from consideration early in the screening process
20 for the DEIS. The RISDS is not located in shipping
21 lanes and is not in area of special scientific
22 importance, desalination, fish and shellfish
23 culture or mineral extraction. Accordingly,
24 depositing dredged material at the RISDS will not

1 interfere with any of the activities mentioned in
2 this criterion. Increased vessel traffic involved
3 in the transportation of dredged material to the
4 proposed disposal site should not impact shipping
5 or activities discussed above.

6 9. The Existing Water Quality and Ecology of
7 the Sites As Determined By Available Data Or by
8 Trend Assessment Or Baseline Surveys (40 CFR
9 228.6(a)(9)). Water and sediment quality analyses
10 conducted in the site and experience with past
11 disposal in this region have not identified any
12 adverse water quality or ecological impacts from
13 ocean disposal of dredged material. Baseline data
14 are further described in the DEIS

15 10. Potentiality for the Development or
16 Recruitment of Nuisance Species in the Disposal
17 Sites (40 CFR 228.6(a)(10)). Based on the
18 available evidence, dredged material is not a
19 potential

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23 source for the development or recruitment of
24 nuisance species at the RISDS. Monitoring results

1 and available data indicate that placement of
2 dredged material at Site 69B (which is in the same
3 exact location as the RISDS) has not extended the
4 range of undesirable living organisms, pathogens,
5 degraded areas, or introduced viable nonindigenous
6 species into the area. Local opportunistic benthic
7 species characteristics of disturbed conditions are
8 expected to be present and abundant at any ocean
9 dredged material disposal site in response to
10 physical deposition of sediments. However, no
11 recruitment of nuisance species or species capable
12 of harming human health or the marine ecosystem is
13 expected to occur at the site.

14 11. Existence at or in Close Proximity to the
15 Sites of Any Significant Natural or Cultural
16 Feature of Historical Importance (40 CFR
17 228.6(a)(11)). As part of the site selection for
18 Site 69B, the Corps conducted an archeological
19 assessment, Entitled "Archeological Assessment,
20 Remote Sensing, and Underwater Archeological Survey
21 For the Providence River and Harbor Maintenance
22 Dredging Project, Rhode Island, April 12, 2001."
23 The archeological assessment is available upon
24 request by contacting the person listed in the FOR

1 FURTHER INFORMATION CONTACT section. The
2 assessment determined that no significant sites
3 were likely to be found within the areas of
4 interest, but there was a potential for historic
5 resources because of known shipwrecks in the
6 vicinity. Additional remote sensing studies were
7 conducted and no significant cultural resources
8 were identified. Coordination between EPA and the
9 Corps and the Commonwealth of Massachusetts and
10 State of Rhode Island are detailed in the DEIS.
11 The Narragansett Indians were included as
12 cooperating agencies during the development of the
13 DEIS. They have also not identified any natural or
14 cultural features of historical significance at the
15 RISDS.

16

17 F. Proposed Action

18

19 The DEIS concludes that the RISDS (currently
20 known as Site 69B) may appropriately be designated
21 for long-term use as a dredged material ocean
22 disposal site. The proposed site is compatible
23 with the general and specific factors used for site
24 evaluation.

1 EPA is publishing this proposed rule to
2 propose the designation of the RISDS as an
3 EPA-approved dredged material ocean disposal site.
4 The monitoring and management of requirements that
5 will apply to this site are described in the draft
6 SMMP (Appendix C of the DEIS). Management and
7 monitoring will be carried out by EPA New England
8 in conjunction with the Corps' New England
9 District.

10 It should be emphasized that, if an ocean
11 disposal site is designated, such a site
12 designation does not constitute or imply Corps or
13 EPA's approval of open water disposal of dredged
14 material from any specific project. Before
15 disposal of dredged material at the site may
16 commence, EPA and the Corps must evaluate the
17 proposal according to the ocean dumping regulatory
18 criteria (40 CFR part 227) and authorized disposal.
19 EPA has the right to disapprove of the actual
20 disposal, if it determines that environmental
21 requirements under the MPRSA have not been met.

22 The information generated for this project
23 and referenced in the DEIS is available for review
24 on line at the address;

1 <http://Www.epa.gov/region1/eco/ridredge/index.html>.

2 1. Electronically. You may review and/or
3 obtain electronic copies of this document and
4 various support documents from the EPA Home page at
5 the Federal Register <http://www.epa.gov/fedrgstr/>,
6 or on the EPA New England Region's Home page at
7 <http://www.epa.gov/region1/eco/ridredge/index.html>.

8 2. In person. The proposed rule, the Draft
9 Environmental Impact Statement (DEIS) which
10 includes the SMMPS (Appendix C), and the complete
11 administrative record for this action are available
12 for inspection at the following locations: (A) EPA
13 New England Library, 11th Floor, One Congress
14 Street, Suite 1100 (CWQ), Boston, MA 02114-2023.
15 For access to the documents, call Peg Nelson at
16 (617) 918-1991 between 10 a.m. and 3 p.m. Monday
17 through Thursday, excluding legal holidays, for an
18 appointment. (B) EPA Atlantic Ecology Division,
19 Library, 27 Tarzwell Drive, Narragansett, RI 02882.
20 For access to the documents, call Mimi Johnson at
21 (401) 782-3025 between 10 a.m. and 3 p.m. Monday
22 through Thursday, excluding legal holidays, for an
23 appointment. The EPA public information regulation
24 (40 CFR part 2) provides that a reasonable fee may

1 be charged for copying. We are also putting copies
2 of the DEIS in all of the Town libraries in the
3 coastal towns in RI & southeast MA.

4

5 G. Statutory and Executive Order Reviews

6

7 1. Executive ORDER 12866: Regulatory Planning and
8 Review

9 Under Executive Order 12866 (58 FR 51735,
10 October 4, 1993), the Agency must determine whether
11 the regulatory action is "significant" and
12 therefore subject to OMB review and the
13 requirements of the Executive Order. The Order
14 defines "significant regulatory action" as one that
15 is likely to result in a rule that may:

16 (A) Have an annual effect on the economy of
17 \$100 million or more or adversely affect in a
18 material way the economy, a sector of the economy,
19 productivity, competition, jobs, the environment,
20 public health or safety, or State, local or tribal
21 governments or communities;

22 (B) Create a serious inconsistency or
23 otherwise interfere with an action taken or planned
24 by another agency;

1 (C) Materially alter the budgetary impact of
2 entitlement, grants, user fees, or loan programs or
3 the rights and obligations of recipients thereof;
4 or

5 (D) Raise novel legal or policy issues arising
6 out of legal mandates, the President's priorities,
7 or the principles set forth in the Executive Order.

8 It has been determined that this proposed
9 action is not a "significant regulatory action"
10 under E.O. 12866 and is therefore not subject to
11 OMB review.

12

13 2. Regulatory Flexibility Act (RFA), as
14 Amended By the Small Business Regulatory
15 Enforcement Fairness Act of 1996, (SBREFA),
16 5 U.S.C. 601 et seq.

17

18 The RFA generally requires an agency to
19 prepare a regulatory flexibility analysis of any
20 rule subject to notice and comment rulemaking
21 requirements under the Administrative Procedure Act
22 or any other statute unless the agency certifies
23 that the rule will not have a significant economic
24 impact on a substantial number of small entities.

1 For the purposes of assessing the impacts of
2 today's rule on small entities, a small entity is
3 defined as: (1) A small business based on the Small
4 Business Administration's (SBA) size standards;
5 (2) a small governmental jurisdiction that is a
6 government of a city, county, town, school district
7 or special district with a population of less than
8 50,000; and (3) a small organization that is any
9 not-for-profit enterprise which is independently
10 owned and operated and is not dominant in its
11 field. EPA has determined that this action will
12 not have a significant adverse economic impact on
13 small entities because the proposed ocean disposal
14 site designation does not regulate small entities.
15 The site designation will only have the effect of
16 providing a long term environmentally-acceptable
17 disposal option for dredged material. This action
18 will help to facilitate the maintenance of safe
19 navigation on a continuing basis. After
20 considering the economic impacts of today's
21 proposed rule on small

22

23 [[Page 23713]]

24

1 entities, it has been determined that this action
2 will not have a significant adverse economic impact
3 on a substantial number of small entities.

4

5 3. Paperwork Reduction Act

6

7 This proposed rule would not impose an
8 information collection burden under the provisions
9 of the Paperwork Reduction Act of 1995 (44 U.S.C.
10 3501, et seq.) because it would not require persons
11 to obtain, maintain, retain, report, or publicly
12 disclose information to or for a Federal agency.

13

14 4. The Unfunded Mandates Reform Act and Executive 15 Order 12875

16

17 Title II of the Unfunded Mandates Reform Act
18 (UMRA), Public Law 104-4, establishes requirements
19 for Federal agencies to assess the effects of their
20 regulatory actions on State, local, and tribal
21 governments and the private sector. Under
22 Section 202 of the UMRA, EPA generally must prepare
23 a written statement, including a cost-benefit
24 analysis, for proposed and final rules with

1 "Federal mandates" that may result in expenditures
2 to State, local, and tribal governments, in the
3 aggregate, or to the private sector, of
4 \$100 million or more in any one year. Before
5 promulgating an EPA rule for which a written
6 statement is needed, section 205 of the UMRA
7 generally requires EPA to identify and consider a
8 reasonable number of regulatory alternatives and
9 adopt the least costly, most cost-effective or
10 least burdensome alternative that achieves the
11 objectives of the rule. The provisions of
12 section 205 do not apply when they are inconsistent
13 with applicable law. Moreover, section 205 allows
14 EPA to adopt an alternative other than the least
15 costly, most cost-effective or least burdensome
16 alternative if the Administrator publishes with the
17 final rule an explanation of why that alternative
18 was not adopted. Before EPA establishes any
19 regulatory requirements that may significantly or
20 uniquely affect small governments, including tribal
21 governments, it must have developed under
22 section 203 of the UMRA a small government agency
23 plan. The plan must provide for notifying
24 potentially affected small governments to have

1 meaningful and timely input in the development of
2 EPA regulatory proposals with significant Federal
3 intergovernmental mandates, and informing,
4 educating, and advising small governments on
5 compliance with the regulatory requirements.

6 EPA has determined that this proposed action
7 contains no Federal mandates (under the regulatory
8 provisions of Title II of the UMRA) for State,
9 local and tribal governments or the private sector.
10 It imposes no new enforceable duty on any State,
11 local or tribal governments or the private sector.
12 Similarly, EPA has also determined that this
13 proposed action contains no regulatory requirements
14 that might significantly or uniquely affect small
15 government entities. Thus, the requirements of
16 section 203 of the UMRA do not apply to this rule.

17

18 5. Executive Order 13132: Federalism

19

20 Executive Order 13132, entitled "Federalism"
21 (64 FR 43255, August 10, 1999), requires EPA to
22 develop an accountable process to ensure
23 "meaningful and timely input by State and local
24 officials in the development of regulatory policies

1 that have federalism implications." "Policies that
2 have federalism implications" are defined in the
3 Executive Order to include regulations that have
4 "substantial direct effects on the States, on the
5 relationship between the national government and
6 the States, or on the distribution of power and
7 responsibilities among the various levels of
8 government."

9 This proposed rule does not have federalism
10 implications. It will not have substantial direct
11 effects on the States, on the relationship between
12 the national government and the States, or on the
13 distribution of power and responsibilities among
14 the various levels of government, as specified in
15 Executive Order 13132. This proposed rule
16 addresses the designation of an ocean disposal site
17 in Rhode Island Sound for the potential disposal of
18 dredged materials. This proposed action neither
19 creates new obligations nor alters existing
20 authorizations of any State, local or governmental
21 entities. Thus, Executive Order 13132 does not
22 apply to this rule. Although section 6 of the
23 Executive Order 13132 does not apply to this
24 proposed rule, EPA did consult with representatives

1 of State and local governments in developing this
2 rule. In addition, and consistent with Executive
3 Order 13132 and EPA policy to promote
4 communications between EPA and State and local
5 governments, EPA specifically solicits comment on
6 this proposed rule from State and local officials.

7

8 6. Executive Order 13175: Consultation And
9 Coordination With Indian Tribal Governments

10

11 Executive Order 13175, entitled "Consultation
12 and Coordination With Indian Tribal Governments"
13 (59 FR 22951, November 6, 2000), requires EPA to
14 develop an accountable process to ensure
15 "meaningful and timely input by Tribal officials in
16 the development of regulatory policies that have
17 Tribal implications." "Policies that have Tribal
18 implications" are defined in the Executive Order to
19 include regulations that have "substantial direct
20 effects on one or more Indian tribes, on the
21 relationship between the Federal government and the
22 Indian tribes, or on the distribution of power and
23 responsibilities between the Federal government and
24 Indian Tribes."

1 The proposed action does not have Tribal
2 implications. If finalized, the proposed action
3 would not have substantial direct effects on Tribal
4 governments, on the relationship between the
5 Federal government and Indian Tribes, or on the
6 distribution of power and responsibilities between
7 the Federal government and Indian Tribes, as
8 specified in Executive Order 13175. This proposed
9 rule designates an ocean dredged material disposal
10 site and does not establish any regulatory policy
11 with tribal implications. EPA specifically
12 solicits additional comment on this proposed rule
13 from tribal officials. Thus, Executive Order 13175
14 does not apply to this rule.

15

16 7. Executive Order 13045: Protection of Children
17 From Environmental Health Risks and Safety Risks

18

19 Executive Order 13045 (62 FR 19885, April 23,
20 1997) applies to any rule that (1) is determined to
21 be "economically significant" as defined under
22 Executive Order 12866, and (2) concerns an
23 environmental health or safety risk that EPA has
24 reason to believe might have a disproportionate

1 effect on children. If the regulatory action meets
2 both criteria, the Agency must evaluate the
3 environmental health and safety effects of the
4 planned rule on children, and explain why the
5 planned regulation is preferable to other
6 potentially effective and reasonably feasible
7 alternatives considered by the Agency. This
8 proposed rule is not an economically significant
9 rule as defined under Executive Order 12866 and
10 does not concern an environmental health or safety
11 risk that EPA has reason to believe may have a
12 disproportionate effect on children. Therefore, it
13 is not subject to Executive Order 13045.

14

15 8. Executive Order 13211: Actions that Significantly
16 Affect Energy Supply, Distribution, or Use

17

18 This proposed rule is not subject to Executive
19 Order 13211, "Actions Concerning Regulations That
20 Significantly Affect Energy Supply, Distribution,
21 or Use" (66 FR 28355 (May 22, 2001)) because it is
22 not a significant regulatory action under Executive
23 Order 12866.

24

1 [[Page 23714]]

2

3 9. National technology Transfer Advancement Act

4

5 Section 12(d) of the National Technology
6 Transfer Advancement Act of 1995 ("NTTAA"), Public
7 Law 104-113, section 12(D) (15 U.S.C. 272 note),
8 directs EPA to use voluntary consensus standards in
9 its regulatory activities unless to do so would be
10 inconsistent with applicable law or otherwise
11 impractical. Voluntary consensus standards are
12 technical standards (e.g., materials specifications,
13 test methods, sampling procedures, and business
14 practices) that are developed or adopted by
15 voluntary consensus bodies. The NTTAA directs EPA
16 to provide Congress, through OMB, explanations when
17 the agency decides not to use available and
18 applicable voluntary consensus standards. This
19 proposed rule does not involve technical standards.
20 Therefore, EPA did not consider the use of any
21 voluntary consensus standards.

22

23 10. Executive Order 12898: Federal Actions to
24 Address Environmental Justice in Minority

1 Populations and Low-Income Populations

2

3 Executive Order 12898 requires that, to the
4 greatest extent practicable and permitted by law,
5 each Federal agency must make achieving
6 environmental justice part of its mission.

7 Executive Order 12898 provides that each Federal
8 agency must conduct its programs, policies, and
9 activities that substantially affect human health
10 or the environment in a manner that ensures that
11 such programs, policies, and activities do not have
12 the effect of excluding persons (including
13 populations) from participation in, denying persons
14 (including populations) the benefits of, or
15 subjecting persons (including populations) to
16 discrimination under such programs, policies, and
17 activities because of their race, color, or
18 national origin.

19

20 No action from this proposed rule would have a
21 disproportionately high and adverse human health
22 and environmental effect on any particular segment
23 of the population. In addition, this rule does not
24 impose substantial direct compliance costs on those

1 communities. Accordingly, the requirements of
2 Executive Order 12898 do not apply.

3

4 11. National Environmental Policy Act of 1969

5

6 Section 102 (c) of the National Environmental
7 Policy Act of 1969, Section 4321 et seq., (NEPA)
8 requires Federal agencies to prepare environmental
9 impact statements (EIS) for major Federal action
10 significantly affecting the quality of the human
11 environment. The objective of NEPA is to build
12 into the agency decision-making process careful
13 consideration of all environmental aspects of
14 proposed actions. Although EPA ocean dumping
15 program activities have been determined to be
16 "functionally equivalent" to NEPA, EPA has a
17 voluntary policy to follow NEPA procedures when
18 designating ocean dumping sites. See, 63 FR 58045
19 (October 29, 1998). In addition to the Notice of
20 Intent published in the Federal Register on
21 April 6, 2001, (66 FR 18244), EPA and the Corps
22 published legal notices in local newspapers and
23 issued a press release inviting the public to
24 participate in DEIS scoping meetings. Formal

1 scoping meetings were conducted on May 17, 2001 and
2 May 22, 2001. In addition EPA and the Corps have
3 held public workshops in several working group
4 meetings. As discussed above, EPA is issuing a
5 DEIS for public review and comment in conjunction
6 with publication of this proposed rule.

7 In addition, EPA and the Corps will submit
8 Coastal Zone Consistency determinations to the
9 State of Rhode Island. Coordination efforts with
10 NMFS and USFWS for ESA and EFH consultation was
11 completed on April 8 and April 1, respectively,
12 during the DEIS process.

13

14 12. The Endangered Species Act

15

16 Under section 7(a)(2) of the Endangered
17 Species Act, 16 U.S.C., 1536(a)(2), Federal
18 agencies are required to "insure that any action
19 authorized, funded, or carried on by such agency
20 * * * is not likely to jeopardize the continued
21 existence of any endangered or threatened species
22 or result in the destruction or adverse
23 modification of habitat of such species * * *."
24 Under regulations implementing the

1 Endangered-Species Act, a Federal agency is
2 required to consult with either the U.S. Fish and
3 Wildlife Service or the National Marine Fisheries
4 Service (depending on the species involved) if the
5 agency's action "may affect" endangered or
6 threatened species or their critical habitat. See,
7 50 CFR 402.14(a).

8 In 2001, EPA prepared a BA for the selection
9 of Site 69B, which is in the exact same location as
10 the RISDS. EPA reinitiated threatened and
11 endangered species consultation with NMFS and USFWS
12 as part of the designation process of the RISDS.
13 NMFS concurred on April 8, 2004, and USFWS
14 concurred on April 1, 2004 that there are unlikely
15 to be any effects on threatened or endangered
16 species or their critical habitat as a result of
17 the proposed action. The USFWS and NMFS concurred
18 with EPA's determination that species under its
19 jurisdiction would not likely be adversely affected
20 by the proposed action. The BA concludes that the
21 proposed action is not likely to affect threatened
22 and endangered species. The BA is available upon
23 request by contacting the person listed in the FOR
24 FURTHER INFORMATION CONTACT section.

1

2 13. Magnuson-Stevens Fishery Conservation and
3 Management Act

4

5 The 1996 Sustainable Fisheries Act amendments
6 to the Magnuson-Stevens Conservation and Management
7 Act (MSFCMA) require the designation of Essential
8 Fish Habitat (EFH) for Federally managed species of
9 fish and shellfish. Pursuant to section 305(b)(2)
10 of the MSFCMA, Federal agencies are required to
11 consult with the National Marine Fisheries Service
12 (NMFS) regarding any action they authorize, fund,
13 or undertake that may adversely affect EFH. An
14 adverse effect has been defined by the Act as
15 follows: "Any impact which reduces the quality
16 and/or quantity of EFH. Adverse effects may
17 include direct (e.g., contamination or physical
18 disruption), indirect (e.g., loss of prey,
19 reduction in species' fecundity), site-specific or
20 habitat-wide impacts, including individual,
21 cumulative, or synergistic consequences of
22 actions." In 2001, an EFH assessment was prepared
23 for the selection of Site 69B (the proposed RISDS).
24 EPA reinitiated EFH consultation with NMFS as part

1 of the designation process of the RISDS. NMFS
2 concurred on April 8, 2004 that the proposed action
3 is not likely to affect those waters and substrate
4 necessary to fish for spawning, breeding, feeding,
5 or growth to maturity. EPA has incorporated MNFS
6 recommendations into the draft SMMP (Appendix C of
7 the DEIS). The EFH assessment concludes that the
8 proposed action is not likely to affect those
9 waters and substrate necessary to fish for
10 spawning, breeding, feeding, or growth to maturity.
11 The EFH assessment is available upon request by
12 conducting the person listed in the FOR FURTHER
13 INFORMATION CONTACT section.

14

15 14. Plain Language Directive

16

17 Executive Order 12866 requires each agency to
18 write all rules in plain language. EPA has written
19 this proposed rule in plain language to make this
20 proposed rule easier to understand.

21

22 [[Page 23715]]

23

24 15. Executive Order 13158: Marine Protected Areas

1

2 Executive Order 13158 (65 FR 34909, May 31,
3 2000) requires EPA to "expeditiously propose new
4 science-based regulations, as necessary, to ensure
5 appropriate levels of protection for the marine
6 environment." EPA may take action to enhance or
7 expand protection of existing marine protected
8 areas and to establish or recommend, as
9 appropriate, new marine protected areas. The
10 purpose of the Executive Order is to protect the
11 significant natural and cultural resources within
12 the marine environment, which means "those areas of
13 coastal and ocean waters, the Great Lakes and their
14 connecting waters, and submerged lands thereunder,
15 over which the United States exercises
16 jurisdiction, consistent with international law."

17 Today's proposed rule implements section 103
18 of the MPRSA which requires that permits for
19 dredged material are subject to EPA review and
20 concurrence. The proposed rule would amend 40 CFR
21 228 .15 by establishing the RISDS. As such, this
22 proposed rule would afford additional protection of
23 aquatic organisms at individual, population,
24 community, or ecosystem levels of ecological

1 structures. Therefore, EPA expects today's
2 proposed rule would advance the objective of the
3 Executive Order to protect marine areas.

4

5 List of Subjects in 40 CFR Part 228

6

7 Environmental protection, Water pollution
8 control.

9 Dated: April 16, 2004.

10 Robert W. Varney,

11 Regional Administrator, EPA New England.

12

13 In consideration of the foregoing, EPA is
14 proposing to amend part 228, chapter I of title 40
15 of the Code of Federal Regulations as follows:

16

17 PART 228 -- CRITERIA FOR THE MANAGEMENT OF DISPOSAL
18 SITES FOR OCEAN DUMPING

19

20 1. The authority citation for part 228
21 continues to read as follows:

22 Authority: 33 U.S.C. 1412 and 1418.

23 2. Section 228.15 is amended by removing and
24 reserving paragraphs (b)(1), and (b)(2), and by

1 adding and reserving paragraphs (b)(3) and (b)(4)
2 (currently proposed for LIS sites); and adding
3 paragraph (b)(5) to read as follows:

4

5 Sec. 228.15 Dumping sites designated on a final
6 basis.

7 * * * * *

8 (b) * * *

9 (5) Rhode Island Sound Disposal Site (RISDS)

10 (i) Location: Corner Coordinates (NAD 1983):

11 41[deg]14'21" N, 71[deg]23[deg]29[sec] W; 41[deg]14

12 [min]21[sec] N, 71[deg]22[deg]09[sec] W; 41[deg]13

13 [min]21[sec] N, 71[deg]23[deg]29[sec] W;

14 41[deg]13[deg]21[sec]N, 71[deg]22[deg]09[sec] W.

15 (ii) Size: 1 square nautical mile.

16 (iii) Depth: Range from 32 to 39

17 meters.

18 (iv) Primary use: Dredged material

19 disposal.

20 (v) Period of use: Continuing use.

21 (vi) Restriction: Disposal shall be

22 limited to dredgedmaterial.

23 * * * * *

24 [FR Doc. 04-9720 Filed 4-29-04; 8:45 a.m.]

1 BILLING CODE 6560-50-P

2

3

* * * * *

4

5 MODERATOR ROSENBERG: Thank you.

6

7 A transcript of this hearing is being
8 made to ensure detailed review of all the comments.
9 A copy of the transcript will be available at the
10 EPA New England Region One Office in Boston at the
11 Corps New England District Headquarters in Concord,
12 Massachusetts, for your review, or it will also be
13 put on the website for your use, or you may make
14 arrangements with the stenographer for a copy at
15 your own expense.

16

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24

Individuals speaking today and this evening will be called to the microphone in the order that they signed in, and as provided for by our hearing protocol. When making a statement, please come forward to the microphone, either one, state your name and the interest you represent. As many know, we have time limits on that. Since there are a few that will be providing information this afternoon, we are setting a five-minute informal limit. We will not be using the stoplight

1 this afternoon.

2 If you are reading prepared comments, I
3 encourage you to also submit a written copy to the
4 stenographer to ensure that all comments are
5 accurately reflected in the hearing record.

6 Please be courteous and limit your
7 remarks to the recommended time limit of five
8 minutes. If not, no problem. Please identify if
9 you're speaking for or representing a position of
10 an organization. If you're speaking for yourself,
11 please do so.

12 We will now receive those comments
13 according to our hearing protocol. Before we
14 begin, I would like to thank Nancy Langrall from
15 Senator Reed's office who is here today. Thank you
16 for coming, and please send Senator Reed our
17 regards.

18 At this moment, we have one speaker
19 that is signed up to speak, John Torgan.

20 (Laughter.)

21 AUDIENCE PARTICIPANT: Wow, imagine
22 that.

23 MR. TORGAN: I should have brought my
24 own microphone; to do more entertaining for you.

1 MODERATOR ROSENBERG: Maybe we'll use
2 the stoplight.

3 (Laughter.)

4 MR. TORGAN: Thank you very much for
5 the opportunity to speak, and thanks for holding
6 this hearing. I have only some very brief
7 comments, everybody will be glad to hear, and we'll
8 all get out of here early.

9 But I have one question first to the
10 record to Carlton Hunt. If you can answer it
11 today, that will be great, but the -- in the
12 purpose and needs section, the survey that showed
13 the cubic yards expected to be needed to dredge is
14 different from the one that appears in the EIS, and
15 I wonder if that is -- how old that is, and whether
16 it's been recently revisited, because the dredging
17 needs, as represented by the requests by Governor
18 Almond in 2000 are no longer the volumes of
19 dredging needs today. The initial request did
20 include some eight or nine million to 14 million
21 cubic yards for the Quonset container port project,
22 which is no longer being pursued as an EIS.

23 And the other thing is that nine
24 million cubic yards were included under the

1 Providence River and Harbor Project, and that
2 project is underway and near completion. So we
3 would ask that the survey determine the need and
4 the volumes be updated for purposes of this
5 project.

6 I think the fact that I'm the only
7 person speaking here today may -- I'm not exactly
8 sure what that means. I appreciate -- my phone. I
9 appreciate the efforts of EPA and the Corps and the
10 cooperating agencies to keep Save the Bay, the
11 organization I'm representing, apprised of this
12 project; participated in the working group; and it
13 has been my impression that the public process on
14 this has been inclusive and complete; that the
15 scientific basis for these determinations has been
16 thorough and professional, and we felt that we have
17 had our comments adequately considered throughout
18 the process; and that the science is, what we have
19 seen so far, fundamentally sound.

20 In terms of the process though,
21 ordinarily, at Save the Bay, we get a lot of calls
22 and comments and concerns when these projects are
23 proposed publicly, and we haven't received any
24 comments from -- from our membership, from the

1 public around Narragansett Bay, about this EIS or
2 these proceedings. I haven't heard really
3 anything. The only calls that I have gotten on it
4 have been from residents in Block Island and
5 representatives of municipal organizations on
6 Block Island. So perhaps some effort should be
7 made to contact the Town of New Shoreham, their
8 counsel or officers, to solicit their comments and
9 input, because that is the only place that I'm
10 hearing strong concerns at this time. Maybe
11 tonight's hearing will be different.

12 So the comments that we have really are
13 in two categories, process, procedural issues, and
14 then the substantive environmental issues. The
15 process issues, I've sort of referred to that we
16 want to make sure, as you do, that the affected
17 parties have the opportunity to provide input into
18 this process; and that if you do not receive an
19 adequate number of comments or input to field that
20 you have reached those audiences, perhaps one way
21 to address that would be to extend the public
22 comment period perhaps to hold an additional
23 hearing, maybe on Block Island, or where you find
24 that additional comments are coming from or

1 lacking.

2 The other thing about process, when
3 this gets to the real substantive comments on this,
4 is that Rhode Island, since the inception of this
5 EIS in 2000, has made tremendous progress on
6 solving our decades-old-dredged dilemma. We have
7 worked with you, the EPA and the Corps, I think,
8 and Congressional offices, the agencies, the
9 University of Rhode Island, CRMC, have really
10 changed the way we have looked at this issue to
11 address the substantive and significant
12 environmental issues, and to develop, both for
13 purposes of the major Providence River Project and
14 also for the -- for the non-Federal projects in the
15 state, and as a matter of state policy, a new law,
16 a new Rhode Island statute that was passed related
17 to dredged material management, and are in the
18 process of developing a dredged material management
19 plan for the State of Rhode Island, which I think
20 will be very important to inform the long-term
21 disposal and dredging management issues.

22 Part of this, though, in the Rhode
23 Island statute was to identify a preferred
24 hierarchy for dredged material disposal; that when

1 an applicant seeks to dredge, whether it be they
2 public or private, Federal or non-Federal
3 interests, that they demonstrate the need
4 for -- for the project, and that the -- that in
5 considering disposal options, they have worked
6 through a hierarchy that places at the top the most
7 preferred alternative being beneficial use, and
8 beneficial use above even upland disposal in water
9 disposal, and other options; and Rhode Island
10 statute requires the applicant to demonstrate that
11 they have considered those less damaging
12 approaches, such as beneficial use before approving
13 inwater disposal.

14 And so a concern that stems out of this
15 is that by designating an inwater disposal site for
16 a long-term basis, it may remove some of the
17 incentive for private or public applicants to
18 consider beneficial use, or it may erode the
19 feasibility of beneficial use options, recognizing
20 that this EIS did not consider beneficial use,
21 given the volume of the survey.

22 That is one concern. And the other
23 thing that being that project that may not
24 ordinarily be able to consider open water disposal

1 as a feasible option will now be able do it. Not
2 to say that it amounts to a pro forma approval of a
3 dredged project that seeks to use this disposal
4 site, but it may indirectly serve to -- to remove
5 some of the incentive to think of more creative and
6 conservative strategies for dredging management.

7 In terms of the substantive impacts, I
8 think that the -- from what I have seen of EIS, the
9 science looks thorough, and the expectation of
10 recovery time is probably fair. It's not -- you
11 know, our concern isn't directed as much toward
12 what we would consider to be the long-term
13 environmental impact, so much as it is the way
14 that -- of approving this site could impact our
15 dredging policy and process in the State of Rhode
16 Island, and so -- what else was I going to say?

17 I'll leave it at that, but I appreciate
18 that, and if I could get an answer at some point on
19 the question about the needs survey, the needs
20 analysis, I would appreciate that very much.

21 Thank you.

22 MODERATOR ROSENBERG: Thank you, sir.

23 Is there anybody here that did not
24 check the box to speak, but would wish to speak at

1 this time?

2 Ladies and gentlemen, we are going to
3 recess this hearing. As individuals -- should
4 individuals come in between now and 4:00 p.m., we
5 will still be here to take comment. At 4:00 we
6 will recess and reopen at 7:00.

7 Okay. And we will continue with the
8 public meeting, if you will, so if you have
9 questions, but the record will close at this point,
10 and we will reopen should somebody come in and give
11 testimony.

12 Thank you. This hearing is now in
13 recess.

14 (Whereupon, at 2:14 p.m., the hearing
15 was suspended.)

16 (Whereupon, the Public Meeting was
17 conducted.)

18 MODERATOR ROSENBERG: Ladies and
19 gentlemen, this hearing is now in recess until
20 7:00 p.m.

21 Thank you very much.

22

23

24

1 E V E N I N G S E S S I O N

2

3 MODERATOR ROSENBERG: Good evening. I
4 am Larry Rosenberg, Chief of Public Affairs for the
5 United States Army Corps of Engineers in New
6 England.

7 I would like to welcome you to this
8 public hearing, and hope to receive your comments
9 and input on the Draft Environmental Impact
10 Statement for the Rhode Island Regional Long-Term
11 Dredged Material Disposal Site Evaluation Project
12 released by the government on April 30th.

13 This hearing is being held in
14 accordance with the National Environmental Policy
15 Act for the sole purpose of listening to you.
16 Before we begin, I would like to thank you for
17 getting involved in this environmental review
18 process.

19 You see, we're here to listen to your
20 comments, to understand your concerns, and provide
21 you an opportunity to appear on the record, should
22 you care to do so. This hearing is yours.

23 Our Hearing Officer this evening is Mel
24 Cote, Manager of the Water Quality Unit, of the

1 Office of Ecosystem Protection for the
2 Environmental Protection Agency, New England
3 Region, that is headquartered in Boston,
4 Massachusetts.

5 Other Federal representatives with me
6 this evening are from EPA: Olga Guza; EPA's
7 Project Manager Ann Rodney, an EPA team member; and
8 from the United States Army Corps of Engineers,
9 Mike Keegan, the Corps of Engineers Project
10 Manager; Kathy Rogers, the Army Corps environmental
11 team member, and the staff of the Public Affairs
12 Office, who you met as you entered this facility.

13 Should you need copies of the Public
14 Notice, it appeared in the Federal Register, the
15 hearing procedures, or other pertinent information
16 is available at the registration table.

17 The agenda this evening is following
18 this introduction, Mel Cote will address the
19 hearing. He will be followed by the Corps' Project
20 Manager, Mike Keegan, who will provide a brief
21 project history and overview of the Corps' role and
22 discuss the public meeting that will follow this
23 hearing.

24 Mike will then introduce Dr. Carlton

1 Hunt from Battelle, a contractor to the Army Corps
2 of Engineers, who will make a 30 minute or so
3 presentation on EIS processes and the
4 recommendations.

5 I will then open this hearing to public
6 comment, using -- utilizing our hearing protocol.

7 I should point out that the Draft
8 Environmental Impact Statement has made a
9 preliminary recommendation, and that no final
10 decision has -- will be made until your comments
11 and concerns are heard and addressed.

12 The public comments for this Draft EIS
13 started on April 30th, and will close on June 21st.
14 We encourage you to submit your comments for
15 consideration in the development of the final EIS
16 decision document.

17 Now, before we begin, I would like to
18 remind you of the importance of filling out those
19 cards that were available at the door. These cards
20 serve two purposes. First, they let us know that
21 you are interested in this project, so we can keep
22 you informed by adding you to the project mailing
23 list.

24 Second, they provide me a list of those

1 who wish to speak tonight.

2 If you did not complete a card, or wish
3 to speak or receive future information regarding
4 this project, please fill out a card, and once
5 again, it is available at the registration desk.

6 One additional comment. We are here to
7 receive your comments, not to enter into any
8 discussion of those comments, or to reach any
9 conclusion. Any questions you have should be
10 directed to the record, and not to the individuals
11 on the panel.

12 Once this public hearing is closed,
13 however, we will open a public meeting where you
14 will have the opportunity to ask questions, and be
15 provided answers by representatives of the EPA and
16 the Corps and others associated with this project.

17 Thank you.

18 Ladies and gentlemen, Mel Cote.

19 MR. COTE: Thank you, Larry.

20 And good evening, everyone. As Larry
21 mentioned, my name is Mel Cote. I am the manager
22 of the Water Quality Unit at the U.S. Environmental
23 Protection Agency's New England Regional Office.

24 Thank you for coming to this public

1 hearing on the Draft Environmental Impact Statement
2 for the Rhode Island Region Long-Term Dredged
3 Material Disposal Site Evaluation Project. Whether
4 it's the voice of support for or concerns about the
5 Federal action proposed in this Draft EIS, or
6 simply to learn more about the project, we welcome
7 your participation.

8 On April 30th, EPA published a Federal
9 Register notice and issued a press release
10 announcing the availability of the Draft EIS for
11 public comment until June 21st. We posted the
12 Draft EIS and a link to supporting documents on our
13 website, and based on responses to an inquiry that
14 we sent to a large mailing list of agencies,
15 organizations and individuals, we mailed either a
16 Notice of Availability with directions on how to
17 access the EIS, or an executive summary of the
18 Draft EIS, or the complete document, to interested
19 parties. This is consistent with our ongoing
20 efforts throughout the site designation process to
21 provide the public with ample opportunity to get
22 information about the project, and to give us their
23 feedback, and it's why we are here today, to listen
24 to and record any comments that you may have on the

1 Draft EIS.

2 EPA and the U.S. Army Corps of
3 Engineers jointly regulate dredged material
4 disposal under Federal authorities provided by
5 section 404 of the Clean Water Act and section 103
6 of the Marine Protection, Research and Sanctuaries
7 Act, which is also known as the Ocean Dumping Act.
8 Section 404 of the Clean Water Act applies to
9 dredged material disposal in state waters, while
10 disposal in Federal waters is subject to the
11 rigorous sediment testing and disposal site
12 designation criteria and site management monitoring
13 plan requirements of the Ocean Dumping Act. Since
14 this project is in Federal waters, the Ocean
15 Dumping Act applies only.

16 In administering these programs, we
17 work closely with other Federal resource management
18 agencies, like the National Marine Fisheries
19 Service and the U.S. Fish and Wildlife Service,
20 Indian tribes and state environmental agencies to
21 ensure proper coordination and consistency with
22 statutory and regulatory requirements and
23 environmental standards.

24 The Ocean Dumping Act authorizes the

1 Army Corps of Engineers to select sites for
2 sort-term use, and EPA designates sites for
3 long-term use. In 2001, the Corps, in cooperation
4 with EPA, exercised its Ocean Dumping Act authority
5 to select the dredged material disposal site for
6 the Providence River and Harbor Maintenance
7 Dredging Project, the site known as Site 69B, and
8 disposal operations from that project began in
9 April 2003.

10 The Ocean Dumping Act limits the
11 availability of Corps-selected sites for disposal
12 activity to two five-year periods. The first
13 five-year period begins with the first disposal
14 activity. In this case, April 2003. And the
15 second five-year period begins with the first
16 disposal activity commencing after completion of
17 the first five-year period. Thus, the Corps can
18 select disposal sites only for short-term limited
19 use; whereas, Congress authorized EPA to undertake
20 long-term site designations, subject to ongoing
21 monitoring requirements to ensure the sites remain
22 environmentally sound.

23 Periodic dredging, and therefore
24 dredged material disposal, are essential for

1 ensuring safe navigation and facilitating marine
2 commerce. EPA believes it's preferable, from an
3 environmental perspective, to dispose of dredged
4 material in only a few discrete locations, so
5 that -- so it can be more easily managed and
6 monitored to protect the marine environment.

7 In the course of selecting Site 69B for
8 the Providence River Project, it was acknowledged
9 that the short-term availability of that site was
10 insufficient to meet the long-term dredging needs
11 of the Rhode Island region. With a continuing need
12 for dredged material disposal, and the impending
13 expiration of the short-term site selection for the
14 Providence River Dredging Project, the Corps was
15 faced with the prospect of having to continue to
16 select new disposal sites that could only be used
17 for a maximum of two five-year periods. In the
18 long-term this could result in the proliferation of
19 disposal sites in the Rhode Island region, and that
20 is why we are here today.

21 In September of 2000, EPA and the Corps
22 received a request from the Governor of Rhode
23 Island to evaluate the designation of one or more
24 long-term, open water dredged material disposal

1 sites, citing the difficulties that navigational
2 facilities were experiencing due to a backlog of
3 maintenance dredging activities. This backlog
4 stemmed from a lack of environmentally acceptable
5 and cost-effective disposal options available to
6 the navigation community. Subsequent dredging
7 needs surveys conducted by EPA and the Corps
8 confirmed the need for a long-term disposal option.

9 The two agencies agreed to fulfill this
10 request, and also agreed that consistent with past
11 practice in designating dredged material disposal
12 sites, we would follow EPA's Statement of Policy
13 for voluntary preparation of National Environmental
14 Policy Act, or NEPA, documents, and would prepare
15 an Environmental Impact Statement to evaluate
16 different dredged material disposal options. EPA
17 and the Corps tried to prepare this Draft EIS to be
18 consistent with EPA's NEPA-implementing
19 regulations, as well as those promulgated by the
20 Council for Environmental Quality for additional
21 guidance.

22 So the two primary Federal laws that
23 are -- that were -- under which were conducting the
24 site designation are the Marine Protection,

1 other entities, and ensure compliance with all
2 applicable legal requirements, EPA also is closely
3 coordinating this effort with other Federal
4 agencies, including the National Marine Fisheries
5 Service and Fish and Wildlife Service, Indian
6 tribal governments, state environmental and coastal
7 zoning management agencies and local governments,
8 some of which are participating as cooperating
9 agencies.

10 EPA and the Corps also have conducted
11 extensive public participation activities,
12 including numerous workshops and informational
13 meetings, to explain the process and disseminate
14 technical findings, and to solicit feedback from
15 the public to help guide the process.

16 We are here today to present
17 information on the Draft EIS that evaluates the
18 long-term disposal options for the Rhode Island
19 region, and to solicit feedback on this document
20 and the Federal action it proposes in the form of
21 oral or written comments.

22 We encourage and welcome your oral and
23 written comments, but we will not be responding to
24 them during the public hearing portion of this

1 evening's proceedings. As Larry might have
2 explained, or Mike is about to explain, there will
3 be a question and answer session during the public
4 meeting immediately following this formal hearing.
5 The comments we receive will be given equal
6 consideration upon conclusion of the public comment
7 period, for the purposes of finalizing the EIS and
8 issuing final rulemaking.

9 The final EIS will include responses to
10 all comments that we receive. EPA and the Corps
11 anticipate releasing the final EIS later this year,
12 December 2004, and if recommended by the EIS,
13 issuing a final rule that will officially designate
14 the site in early 2005. For accuracy of the
15 record, your written comments should be sent to
16 Olga Guza at the EPA New England Regional Office,
17 and will be accepted until close of business on
18 Monday, June 21st.

19 Thank you again for your participation
20 in this public hearing, and for your interest in
21 the issue of dredged material management in the
22 Rhode Island region.

23 MODERATOR ROSENBERG: Ladies and
24 gentlemen, Mike Keegan.

1 MR. KEEGAN: Thank you, Larry.

2 As Larry mentioned, my name is Mike
3 Keegan. I'm the Corps' Project Manager for the
4 Rhode Island Region Long-Term Dredged Material
5 Disposal Evaluation Project.

6 The purpose of this project is to
7 evaluate the feasibility of designating a long-term
8 dredged material disposal site to assist both
9 public and private navigational facilities, while
10 meeting maintenance requirements to ensure safety,
11 and to meet the navigational needs of commercial
12 shipping, fishing and recreational vessels.

13 The Corps currently has 18 project --
14 navigational projects in Rhode Island, and 17 in
15 southeastern Massachusetts that we are required to
16 maintain to a safe navigable depth for vessels
17 ranging from large cargo carriers to recreational
18 boats. Some of this dredged material from the
19 harbor is clean sand, which is suitable for use as
20 renourishment for the area's beaches when they are
21 available. Other material is not compatible as
22 nourishment, because it has a different grain size
23 than the beach material.

24 Fairly recently, the Corps completed an

1 Environmental Impact Statement, which selected an
2 ocean disposal site for Rhode Island Sound for the
3 disposal of material to be dredged from the
4 Providence River and Harbor Project, which would
5 restore the Federal channel to its authorized
6 depth, and eliminate the impact that shoaling of
7 the channel had on commercial shipping.

8 This material must, according to
9 Federal law, undergo a series of rigorous physical,
10 chemical and biological testing to prove its
11 suitability for placement in the Sound. Although
12 this selected site, called 69B, is currently
13 available to meet the short-term maintenance needs
14 of the Rhode Island region, other navigation
15 facilities in the region have experienced a
16 tremendous backlog in dredging needs due to the
17 limited disposal options.

18 It was because of the amount of time
19 that was needed to conduct the Providence EIS, and
20 the fact that the state believed it was prudent to
21 attempt to address the long-term navigation needs
22 of the area, that the Governor of Rhode Island
23 wrote a letter to both the Corps of Engineers and
24 US EPA requesting that we evaluate the feasibility

1 of a long-term designation.

2 As Mel mentioned, the EPA is the agency
3 responsible to designate a long-term disposal site,
4 but the Corps has a great deal of expertise in both
5 dredging, the dredging needs, and assessing the
6 dredging impact and disposal on potential
7 environment. And for that reason, EPA requested
8 the Corps become a cooperating agency in the
9 evaluation of this project. Both agencies agreed
10 that updated information was needed to be acquired
11 that could supplement historic information, as well
12 as the data that was collected as part of the
13 Providence EIS project. Both agencies also
14 recognized the need to involve the public in every
15 aspect of this project.

16 In addition to conducting an extensive
17 literature review to collect all the available
18 information from the project area, various field
19 efforts were also conducted to collect information
20 on oceanography, fish, lobster, shellfish, both for
21 populations and tissue analysis, benthic
22 information was collected, and sediment analysis
23 was also performed.

24 In order to determine the current and

1 future dredging needs, a dredging needs survey was
2 performed. This survey was sent to 450 navigational
3 facilities in both Rhode Island and Massachusetts,
4 and its purpose was to collect information on both
5 the immediate and future dredging needs of for both
6 maintenance and expansion of current facilities.

7 An investigation into the economic
8 importance of navigation-dependent facilities in
9 the Rhode Island and Southeastern Massachusetts
10 region was also conducted, and it was found that
11 these industries contributed \$56,000 -- 56,000 jobs
12 and \$3.4 billion annually to the economy of this
13 region.

14 We also had three meetings with the
15 local fishermen to find out where they fished, so
16 that we could find the areas to avoid in
17 considering a location of an alternative disposal
18 site, and to determine from them if there was a
19 location where a disposal alternative should be
20 considered.

21 While the field investigations, the
22 economic analysis and dredging needs work was being
23 initiated, the project team worked with the
24 University of Rhode Island Coastal Institute here

1 in Narragansett to establish a working group that
2 would assist in the development of screening
3 criteria to help focus our evaluation efforts. The
4 working group is comprised of representatives,
5 Federal, tribal, state and local agencies,
6 representatives of lobster, shellfish, fishing
7 organizations, representatives of the shipping
8 industries, local universities and other
9 organizations that had both an interest and an
10 expertise that they could lend to the project.

11 The Coastal Institute acted as
12 facilitators to assist the working group in
13 identifying screening criteria that they felt
14 should be included in the initial screening of the
15 project, so that we could eliminate areas where
16 dredging sites should not be considered. That
17 presentation will be given a little later on by
18 Mr. Carlton Hunt.

19 We wanted to do the screening, because
20 the impacts to some resources, such as fisheries,
21 shellfish or other navigational safety concerns,
22 needed to be considered.

23 Throughout this project, we have
24 attempted to present information as it became

1 available, so that we could get input back from the
2 public and help us focus our efforts. That is also
3 the purpose of tonight's meeting. It's important
4 that we receive your input as well. As Larry will
5 shortly explain, the hearing process is somewhat of
6 a one-way communication. You provide your input,
7 and we record your comments and listen to your
8 thoughts. It's not designed to be a question and
9 answer process. That can be both frustrating to
10 you. We want to have answers to your questions,
11 and to our project team, who also want to answer
12 those questions.

13 For that reason, following the formal
14 public input period, we will conclude the hearing.
15 We'll open up the public meeting where we can have
16 a two-way dialogue. We will answer any questions
17 that you ask to the best of our ability, go through
18 any of the presentation, and any of the information
19 that is on the placards in the back.

20 I want to thank you for your
21 involvement in this project, both for the help that
22 people have provided in the past, and for taking
23 the time to be with us today. We have been able to
24 get to this stage because of the assistance of the

1 public, and the people who are working with us on
2 the working group. Local knowledge has been an
3 important component in our evaluation process. I
4 look forward to hearing your comments today, as
5 well as encouraging you to provide us any
6 additional comments that you may have by June 21st.

7 I would like to also introduce
8 Dr. Carlton Hunt from Battelle, who will walk us
9 through the screening criteria, and how we got from
10 basically a large area that we started our study
11 on, initial consideration, down to the
12 recommendation that we made in our draft
13 environmental statement.

14 Carlton.

15 MR. HUNT: Thank you, Mike.

16 Again, I am Carlton Hunt. I work with
17 Battelle, and I am under contract with the U.S.
18 Army Corps of Engineers.

19 Tonight I briefly want to present and
20 summarize the EIS process, review the pertinent
21 laws and regulations, as you have heard already a
22 little about this evening, and review the purpose
23 and need once again.

24 Also, we would like to present an

1 overview of the screening process that led to the
2 areas that we further reduced to two locations
3 within the area that we studied for sites that were
4 carried forward into the -- as alternatives into
5 the EIS.

6 I would also like to summarize the
7 evaluation of the environmental and socioeconomic
8 evaluations that we did, and present further
9 alternatives, and lastly, convey the next steps.

10 As you all know, this started back in
11 the -- back in 2001 with a series of scoping
12 meetings and announcement, particularly of the
13 decision to prepare an EIS and Notice of Intent.
14 Over the last two years, a number of activities
15 have occurred, to include field surveys, literature
16 work, to identify data and information that would
17 inform the decision process, and also included
18 working groups, as Mike indicated, who, in fact,
19 helped define factors that we needed to look at in
20 order to make this recommendation.

21 We are now in the 45-day comment
22 period. After this period, we will prepare a final
23 EIS that actually incorporates and includes
24 comments that are received during this open period.

1 Lastly, towards the end of this year,
2 the final EIS will be issued, and a designation
3 would be carried forward, if that is the final
4 decision.

5 There are three major statutes in the
6 US that regulate and manage ocean disposal, to
7 include the Rivers and Harbor Act of 1899, the
8 Marine Protection Sanctuaries Act, the Water
9 Resources Development Act and the Clean Water Act.
10 The Clean Water Act is not activated in this
11 process, because the disposal site that we're
12 looking at is outside of state waters and
13 outside -- and within the 12-mile Federal limits.

14 The purpose of the EIS, as you have
15 heard already, is to evaluate one or more locations
16 for ocean disposal site as to be potentially
17 designated as long-term -- for the receipt of
18 long-term -- for long-term receipt of dredged
19 material from the Rhode Island region. It was
20 initiated, as indicated previously, based on the
21 Governor of Rhode Island, and also supported by
22 Senator Reed.

23 We moved from that point of request
24 through the point we're at right now by defining

1 the need, by defining a Zone of Siting Feasibility,
2 by defining candidate site locations, and also
3 looking and evaluating these alternatives using
4 factors and criteria that are included in the
5 Marine Protection and Sanctuaries Act. There are
6 five specific general criteria and 11 other
7 criteria to look at.

8 Finally, we looked at the affected
9 environment in great detail. That would include
10 the whole of the Zone of Siting Feasibility, and we
11 evaluated the environmental consequences of placing
12 dredged material in the particular locations that
13 we were evaluating. That led to the preferred
14 alternative that you have before you.

15 Just to very quickly review the needs.
16 As Mike indicated, there was a survey conducted of
17 the University's navigation facilities, dependent
18 facilities, to determine what their maintenance
19 needs were, as well as new project needs. That
20 included Federal projects, as well as non-Federal
21 projects, and that was a planning horizon of about
22 20 years.

23 That particular evaluation determined
24 that there were about 8.8 million cubic yards of

1 material that might need to be disposed of in the
2 ocean. This figure before you, I point to the fact
3 that we have indicated that at the point that this
4 is initiated, Quonset Point, was considered to
5 maybe potentially have some dredging needs. To my
6 knowledge, that is not carried forward, and the
7 number that we carried forward, in terms of the
8 need within the EIS, is 8.8 million cubic yards.

9 This slide depicts the location of the
10 larger -- the bullet that you see on the slide,
11 that dot you see on the slide, is larger volumes of
12 material, potentially needing ocean disposal. You
13 can see the distribution of locations for disposal
14 are -- range throughout the area that we studied,
15 and that the larger projects are up in the
16 Providence River area, some partly down
17 Narragansett Bay, and the other ones are over in
18 the Buzzard's Bay area.

19 Once that was determined, we needed to
20 determine the Zone of Siting Feasibility. That was
21 based on five criteria, political boundaries,
22 navigation restrictions, type of disposal equipment
23 that could be used, cost of transporting dredged
24 material, and lastly the distance to the

1 continental shelf. These criteria are housed in a
2 number of guidance documents, both nationally and
3 internationally.

4 The major consideration in determining
5 how far offshore we should look was safety, vessel
6 operation safety, crew safety. Dredging oftentimes
7 occurs in the winter, and oftentimes there are
8 major storms, and therefore the practical factors
9 and safety factors come into play.

10 This figure depicts the area that we
11 looked at as potentially being in the Zone of
12 Siting Feasibility. The arcs that you see there
13 are 20 nautical mile arcs drawn around each of the
14 dredging centers for locations that were
15 identified, and you can see that a number of them
16 reached further offshore, particularly south of
17 Block Island, and south of Martha's Vineyard and
18 the Nantucket area.

19 We took the information I described in
20 the previous slide, and this particular information
21 set. We come up with a location that you see
22 depicted in the blue square to the south of Rhode
23 Island that extends from the Connecticut/Rhode
24 Island border southward, east of New York State

1 waters -- excuse me -- southerly past New York
2 State waters and the tip of Long Island Sound,
3 extending eastward to a location south of
4 Southeastern Massachusetts, and then back along the
5 Massachusetts state waters into Southern
6 Massachusetts and Rhode Island.

7 Once we had that identified, the next
8 step was to, in fact, look at areas that could be
9 acceptable for including -- for locating a dredged
10 material disposal site, and we looked at specific
11 alternatives in that area as part of the process.

12 And again, I mentioned earlier that
13 there are five general criteria and 11 specific
14 regulatory criteria in the regulations for
15 designating ocean disposal sites. Those formed the
16 cornerstone of our evaluation.

17 However, those are fairly general
18 statements, and we needed factors in order to
19 completely evaluate that information, and provide
20 information to fully evaluate the criteria and
21 compare. Therefore, the Rhode Island regional
22 working group was formed to, in fact, identify
23 those, and the major areas of concern that were
24 identified and factors of sediment characteristics

1 and sediment quality, water quality issues,
2 biological resources that are in the area, to
3 include benthic community, finfish, shellfish,
4 marine mammals, coastal birds.

5 Rare and threatened endangered species
6 were also considered, their habitat location in
7 this region where they are most often found.
8 Contaminant bioaccumulation into the food chain was
9 a consideration, as were socioeconomic factors.
10 Air quality and noise also were looked at in the
11 EIS, as there are concerns for that type of impact;
12 and lastly we looked at the geological setting and
13 the physical oceanography of the area. That
14 particularly looked at the potential for sediment
15 transport due to currents in the area, currents
16 that are generated by waves, and others come from
17 winds, and other oceanographic factors.

18 In order to gather the information to
19 complete the survey, we performed a major
20 literature search. I believe the database contains
21 well over 500 citations. We also conducted field
22 studies to fill in data gaps that the literature
23 search had identified. That information was
24 compiled into a geographic information system,

1 which is a geospacial representation where you can
2 take various types of information and overlay it to
3 make the kind of decision that we needed to make.
4 I will show you some examples of that in a few
5 moments.

6 As part of the process, we prioritized
7 the criteria and the factors into two tiers. The
8 first tier were -- was information and factors that
9 were clearly exclusionary, that is that it would
10 not be appropriate to put a site in that -- in a
11 location where there was exclusionary criteria that
12 came into play.

13 In Tier 2, we evaluated the remaining
14 areas, and under that we evaluated areas that would
15 also be exclusionary. We included areas that
16 Tier 2 would be discussion. And level 3,
17 discussions would be those that would be acceptable
18 for placing a dredged material disposal site.

19 One of the criteria suggests that
20 dredged material disposal should occur off the
21 continental shelf. That factor was ruled out
22 during the Zone of Siting Feasibility and so,
23 therefore, the sites are not located in that area.
24 Areas of high dispersal potential, that is where

1 sediment could be lifted up and moved because of
2 currents and other factors, were deemed areas that
3 we did not want to put a dredged material disposal
4 site. In other words, we wanted to contain the
5 materials maximally within the site.

6 Areas of conflicting use were also
7 eliminated, anchorages, reserves, scientific --
8 designated scientific areas, conservation areas,
9 such as sanctuaries, also refuges, national
10 seashores, any place that had conservation in mind.
11 Active ordinance and military use areas were
12 excluded. Particularly, the military use came into
13 play in the evaluation.

14 Lastly, second to last, we looked at
15 exclusionary, any kinds of utilities that might be
16 in the region would be -- if they were in place
17 within the sea floor, or otherwise that would be a
18 place that the site could not be appropriate.

19 And then the last thing we looked at
20 was culturally or historically significant areas,
21 such as shipwrecks or other cultural concerns.

22 Threatened and endangered species were
23 also looked at, in terms of critical habitat, and
24 there are within the zone siting feasibility, so,

1 therefore, that became a factor that basically was
2 not operating. There were no concerns.

3 The next series of slides will show you
4 some of the layers. The particular slide you have
5 before you, the blue colors designate depth. The
6 darker the blue, the deeper the depth.

7 Also there is a layer that is
8 overlaying on top of this that is like a
9 transparent layer, and outlined in black, and that
10 is the area of potential for erosion to occur,
11 based on the modeling that we did. Those areas
12 were considered to be excluded, and what was left
13 in this particular piece of information were the
14 areas that remain blue.

15 This is just another example of
16 shipwrecks. We put a half a nautical mile circle,
17 radius circle, around each of these wrecks and
18 excluded that area as being inappropriate for
19 location of dredged material disposal site.

20 Another example is the military use and
21 utilities. The brown lines you see on this are the
22 cabling that goes to Europe that comes out of
23 Southern Rhode Island. There are also
24 four -- three areas that are military use areas

1 that are designated with the hatch marks.

2 Because these were exclusionary, we
3 were able to black those layers out and say we
4 can't go there. What you see in this particular
5 slide is the area that remained after Tier 1 for
6 further consideration for locating dredged material
7 disposal site.

8 The map set up information that
9 we -- the set of information that we used to
10 evaluate that remaining blue area, and to minimize
11 impact of fisheries and other resources, living
12 resources in the region, were evaluated underneath
13 the -- for fish habitats, fish concentrations,
14 living resources. Navigation and shipping lanes
15 were another factor that we looked at, and areas
16 where diving and active recreation was occurring.

17 We also addressed unexploded underwater
18 ordinances; use of historic dump sites, which is
19 also included in the criteria for designating
20 sites; benthic habitat types, and also cultural
21 resources, as previously indicated.

22 The next set of slides show you the
23 type of data that we generated under this tier of
24 screening. What you see on the slide here are

1 areas that a number of people have gathered where
2 fishing occurs, and is very important. The hatch
3 marks depict studies that are conducted in the deep
4 blue or valley area are -- is the location where
5 local fishermen indicated was an important trawling
6 area. The blue dots indicate fish concentrations
7 that the states reported.

8 The next slide that I have depicts
9 locations of ocean quahog densities in a biomass.
10 The darker hot colors, red colors, are areas of
11 high abundance and biomass, and the blue cool
12 colors are lower abundances. And as you can see,
13 there are a number of areas that there are
14 significant resources for quahogs. This
15 came -- comes from a data set that is approximately
16 20 years old.

17 This is a layer for screening for
18 transportation routes. You will see the approaches
19 to the Narragansett Bay and Buzzards Bay area.
20 Also included are major ferry routes. For those
21 locations, we also put a buffer zone around them,
22 in terms of looking to see whether or not it was
23 appropriate to locate a site near those.

24 This is the excluded area based on the

1 Tier 2 screening. As you can see, many areas were
2 excluded on the basis of what I have just shown
3 you. There are some questionable areas in gray.
4 Once you combine this layer with the Tier 1 layer,
5 there are very few locations left in Rhode Island
6 Sound where it was being -- that we may reasonably
7 put a dredged material disposal site.

8 The two areas that were chosen to carry
9 further in and evaluate further are shown in the
10 pink on the particular slide. The two areas that
11 are blue are further excluded, simply because they
12 are very close to some high fisheries areas and
13 resource areas.

14 This is a zone -- a depiction of the
15 study areas that we identified as part of the
16 screening process, but we had not reached, at that
17 point in time, was the actual footprint where we
18 would want to locate the sites. In the
19 alternatives, what we did was with this screening
20 layer, identify two, or for each location, each
21 area, a single one square nautical mile footprint
22 that we wanted to place somewhere within one of
23 these areas. So the next step in the process was
24 to, in fact, do that.

1 And what we found was that for -- and
2 these were determined to be areas east. That is
3 the eastern most yellow color on the slide, and
4 area W, which is inclusive of 69B, and sediments
5 around that. So those were the areas that we
6 further evaluated.

7 What we found was that for area E,
8 there was very little data, so a field program was
9 mounted to look at the dymmetry in the area in
10 great detail; side scan sonar to look at habitat,
11 and look for resources within the area;
12 magnetometer surveys to look at iron bearing
13 coastal resources. We looked at currents and tides
14 in the region. We also looked at sediment
15 chemistry. We used a technique called sediment
16 profile imagery to look at the grain size
17 distribution, as well as to get a handle on the
18 types of benthic community that were there, and the
19 health of the benthic community that is in those
20 areas.

21 We looked at detailed benthic info,
22 accounts, within each of the areas to look at the
23 benthic resources. We conducted finfish trawls, as
24 well as lobster trawls, to evaluate and assess

1 the -- those particular resources. And the last
2 thing we did is a series of quahog counts to, in
3 fact, determine whether or not we were near any of
4 those high quahog locations that I showed
5 previously.

6 This slide simply depicts the eastern
7 area. The main point of the slide is there is
8 quite a large variety of sediment types out there.
9 In the upper right side is a rough area of very
10 high relief; and to the south and west on the
11 particular slide you see the brown colors. That is
12 a sandy area. The very gray area, those are areas
13 along the southern part of the study zone are more
14 fine grain sediments.

15 We took the information I just spoke
16 about and tried to determine where it would be best
17 to locate one square nautical mile alternative.
18 Without getting into great detail on this, the box
19 No. 3 that is in green here was the one that was
20 chosen. It was chosen primarily because it's away
21 from that hard bottom area, that rough bottom area
22 where there are -- had higher presences of lobster,
23 and it was in a slightly sandier location and
24 slightly deeper.

1 This is the west area, and the green
2 box is the alternative that we determined to carry
3 forward into the EIS. That happens to coincide
4 with Site 69B, but we did conduct other studies
5 outside of that area to determine whether or not we
6 could move that location or -- around a little bit.

7 This is the -- just the position of the
8 two areas that we carried forward into the EIS,
9 Site W and Site E.

10 As part of the EIS, the NEPA process,
11 we needed to look at alternatives. One of the
12 alternatives that NEPA requires, one to look at, is
13 the no action alternative. So there were three
14 alternatives evaluated, two -- three alternatives
15 evaluated in EIS, Site W, Site E, and the no
16 action.

17 We assessed the potential for impact
18 from each of these alternatives underneath the
19 criteria that I have just described previously in
20 terms of site selection and designation. Those
21 were evaluated, in terms of impact, no impact and
22 minimal or minor impacts. Minor impacts are
23 defined as being those that were by the short-term,
24 or they could be mitigated through management

1 processes.

2 Very quickly, the EIS has 10 major
3 chapters. The technical chapters are Chapter 3,
4 the Affected Environment, which has a complete
5 description of both the area and the specific
6 sites.

7 Chapter 4 does the environmental
8 consequences and evaluates against the criteria I
9 have just mentioned. The remaining chapters all
10 provide information that relate to NEPA and the
11 requirements within that.

12 I will point you to appendices. Within
13 the appendices is a site management and monitoring
14 plan that is also required by the regulations, and
15 there is a draft one for review and comment.

16 To go through the assessment of impact,
17 I'm not going to speak of the -- the cells that are
18 colored in blue, because those were
19 nondiscriminatory. The impact was determined to be
20 no impact, and therefore no difference. So it was
21 hard to make a decision or judgment. However, I
22 will point out that in terms of sediment erosion
23 and sedimentation, it was felt to be a minor
24 impact. From the disposal process, there would be

1 no impact -- no action taken.

2 The water column transport that was
3 felt to be a major impact, or impact, I should just
4 say, as Site E, and a minor impact at Site W, the
5 reason for that was the modeling that was done for
6 water quality determined that Site E had a higher
7 probability of exceedences of water quality
8 criteria from disposal because of A, its
9 orientation; and B, the types of currents and
10 directions of currents that are at that location.

11 Water column transport at Site W is
12 considered to be a minor impact, because there is a
13 potential for that, but also for water quality
14 exceedences. However, the impact potential could
15 be mitigated through site management practices.

16 Sediment quality, again minor impacts.
17 Those are primarily due to changes in grain size.
18 Because of the material going out, there would
19 be -- have not gone through the geological history
20 and processes, so they could be slightly different
21 in terms of grain size.

22 The benthos was considered to have
23 minor impacts, the two alternatives offshore,
24 because while burial of organisms could occur, they

1 would, in fact, recover, and documentation and
2 reports and publications suggest quite strongly
3 that these materials, in fact, come back. The
4 animals, in fact, come back in the sediments once
5 disposal ceases.

6 Again, minor impacts to lobster, fish
7 and other invertebrates were identified, primarily
8 because it's considered to be a short-term impact;
9 and, in fact, the organisms can come back and
10 inhabit these areas.

11 Lastly, the use of previous disposal
12 sites is an important consideration, and if we went
13 to Site E it was considered that we would be
14 potentially disrupting another portion of the
15 region out there, and that that was not a desirable
16 thing to do.

17 And then by going to Site W, that is
18 already being used for disposal, that would
19 minimize any potential, further disruption in the
20 area. That also goes to the cumulative impact that
21 you see at the bottom of this particular graft.

22 And lastly, air noise and air quality
23 was considered to be a consideration under no
24 action.

1 Under no action, the most significant
2 piece was the economic impacts of not being able to
3 move commerce in and out of Narragansett Bay and
4 the southern parts of Massachusetts.

5 So the preferred alternative that is in
6 the EIS is Site W. It was chosen because of the
7 lower likelihood of sediment transport, the greater
8 likelihood of meeting water quality criteria. It
9 also reduces the regional economic impacts of not
10 being able to move vessels in and out of the area.
11 And it's also an active disposal site at the
12 present time.

13 The picture you see here is the
14 bathymetry in the site as of February of 2004. The
15 hotter red colors are elevations caused by
16 disposal. The deep blue area is the low
17 topographic load that is in a particular site, in
18 the site right now.

19 Next steps are to review -- receive
20 your comments, review and respond to those,
21 finalize the EIS, publish it and rulemaking, and
22 then complete the designation process, as we heard,
23 in the early parts of 2005.

24 Thank you for your attention, and I

1 would like to turn this back now to Larry.

2 MODERATOR ROSENBERG: Ladies and
3 gentlemen, it is crucial to this public process
4 that your voice is heard, and we are here to
5 listen, to listen to your comments, understand your
6 concerns, and to provide you an opportunity to put
7 your thoughts on the record should you care to do
8 so. The information we provide this evening is
9 important, and will assist both the EPA and the
10 United States Army Corps of Engineers in evaluating
11 and developing the course of action that the
12 agencies will jointly recommend in the future.

13 And I would like to thank you in
14 advance for taking the time to provide us with your
15 views. This hearing will be conducted in a manner
16 that all who desire to express their views will be
17 given an opportunity to do so.

18 To preserve the right of all to express
19 those views, I ask that there be no interruptions.

20 When you came in, copies of the Public
21 Notice of Availability and the procedures to be
22 followed at this hearing were available. If you
23 did not receive these, both are available at the
24 registration desk. I will not read either the

1 procedures or the Notice of Availability, but they
2 will be entered into the record.

3 A transcript of this hearing is being
4 prepared, and the record will remain open, and
5 written comments may be submitted tonight or by
6 mail until 5:00 p.m. on June 21st, 2004. All
7 comments will receive equal consideration.

8 If you know of anyone who cannot
9 attend, but who desires to provide written
10 comments, they should do so, and forward those
11 comments to Olga Guza in EPA's New England Regional
12 Office in Boston, Massachusetts.

13 Lastly, I would like to re-emphasize
14 that the government has made no final decisions
15 with regard to this project. It is our
16 responsibility to fully evaluate all the
17 information available, including your input, prior
18 to developing the recommendation in the final EIS.

19 If there is no objection from the
20 Hearing Officer, I will now dispense with the
21 reading of Public Notice of Availability of this
22 hearing and have it entered into the record.

23 MR. COTE: No objection, Larry.
24 MODERATOR ROSENBERG: Thank you.

1 A transcript of this hearing is being
2 made to assure a detailed review of comments. A
3 copy of the transcript will be available at the EPA
4 New England Regional Office in Boston, and at the
5 Corps' New England District Headquarters in
6 Concord, Massachusetts, for your review; or it will
7 be on the website for your use; or you can make
8 arrangements with the stenographer for a copy at
9 your own cost.

10 Individuals speaking today will be
11 called to the microphones, either one, in the order
12 they signed in, and as provided for by our hearing
13 protocol. That was, again, distributed at the
14 reception area.

15 When making a statement, please come
16 forward to the microphone and state your name, and
17 the interest you represent. As there are not many
18 that will be providing comment tonight, we're
19 asking that all comments maintain a five-minute
20 window.

21 If you are reading prepared comments, I
22 encourage you to also submit a written copy to the
23 stenographer to ensure that all comments are
24 accurately reflected in the hearing record.

1 I want to emphasize that all that wish
2 to speak will have an opportunity to do so. While
3 we will not run out of time, once again, if you
4 have additional comments, please put them in
5 writing and forward them to Olga at the EPA office.

6 We will now receive your comments
7 according to those protocols.

8 Mr. Bruce Knight.

9 MR. KNIGHT: My name is Bruce Knight.
10 I own and operate a 42-foot dragger, fishing out of
11 Wickford, Rhode Island. I hope coming down this
12 hot bed of fishermen we didn't scare you tonight.
13 I see there is a Narragansett cop out front.

14 (Laughter.)

15 MR. KNIGHT: As a representative of the
16 Rhode Island Commercial Fishermen's Association, I
17 went to the first public hearing at CCRI's Knight
18 Campus to request an additional public hearing in
19 the South County area. I read a statement and
20 brought a petition for additional public hearings
21 with over 100 signatures.

22 Our request for a second public hearing
23 was granted and held on September 26th, at URI Bay
24 campus. Six members of the RICFA read statements

1 about our concerns of using 69B as the Providence
2 River dump site. We were promised written answers
3 to our concerns in one month. We have received the
4 Corps of Engineers response to comments in June
5 2002. We were basically told our concerns had no
6 merit. 69B, as the Providence River dump site, was
7 a done deal.

8 This one I got to get a handle on. I
9 sat on the panel of the Rhode Island Long-Term
10 Dredged Material Disposal Site Evaluation
11 Project -- thank you -- that met eight or nine
12 times at the Coastal Institute. I reiterated at
13 every meeting that talk of a long-term dump site
14 was premature until the effects of dumping at 69B
15 could be seen. The dumping license for 69B is five
16 years, and there was no need to rush to judgment on
17 a long-term dump site. Again, these concerns were
18 brushed aside.

19 I represented the RICFA at the Rhode
20 Island DOT's public hearing for the disposal of the
21 Jamestown Bridge debris. I negotiated successfully
22 the steel to be recycled and three inshore sites to
23 be taken off the table. The Black Point site was
24 in trap waters and a dragging area. That left two

1 dump sites, 69A and Block Island Sound. The DOT
2 refused to take Block Island Sound off the table,
3 even though it was in a drag bottom and a major
4 area of income for the fleet.

5 I told the DOT time after time that
6 Rhode Island was blessed with a tremendous amount
7 of natural underwater structure, and there was no
8 need for artificial reefs. In December 2003, I
9 thought we had an agreement with the DOT that 69A
10 and the gravel berm on the north and west side of
11 69B would be used as the disposal site. This fell
12 through when the Army Corps of Engineers decided
13 that one site was ocean disposal and not ocean
14 reef.

15 As I thought of my statement for this
16 public hearing on a choice of site W or E, I
17 thought keeping it simple and just endorsing
18 Site W. Well, that would make me an advocate of
19 something I fought tooth and nail against just
20 three years ago.

21 The manipulations of the Army Corps of
22 Engineers has been a wonder to see. When something
23 sinks beneath the surface of the water, it is out
24 of sight and out of mind. We sit here now,

1 June 2004, with one active dump site, 69B, or
2 Site W. Two dump sites to go active in 2005, 69A,
3 and an inshore site to be named, and the
4 possibility of Site E becoming the long-term dump
5 site. Amazing.

6 The first week of June 2004 saw a
7 meeting between the Army Corps of Engineers, DEM,
8 CRMC and the DOT on a suitable inshore site for the
9 Jamestown Bridge debris. This was a meeting even
10 the RIDOT admitted should have occurred two years
11 ago. The arrogance and ruthlessness of the Army
12 corps of Engineers was something to behold. I
13 suspect the trouble the Army Corps of Engineers has
14 had in courts throughout the United States comes
15 from this attitude.

16 Personally, I hope this will put
17 my -- an end to my dealings with the Army Corps of
18 Engineers. It's nothing pleasant.

19 Thank you.

20 MODERATOR ROSENBERG: Thank you, sir.

21 The next speaker, Robert Shields.

22 MR. SHIELDS: My name is Robert
23 Shields. I live in Narragansett, Rhode Island. I
24 would like to address this hearing from two

1 aspects, one as a recreational boater, and the
2 other as a chemist and lifelong engineer.

3 As a boater -- and also, I'm not really
4 qualified to judge the disposal site, and the
5 impact that spoils may have there. What I would
6 like to address is the source of potential
7 disposal. And I realize it's only potential.
8 This -- this could change before the 20 years
9 elapses.

10 There is no mention of the type of
11 marine activity that would require many of these
12 locations where dredging is to be done. I have
13 no -- as of -- as a registered boater, I have no
14 problem with sea-going vessels moving up and down
15 Narragansett Bay or into Mount Hope Bay. And
16 frankly, also not into Buzzards Bay.

17 What concerns me is that this may open
18 the door to an activity that I think would be
19 disastrous for urban areas, and that is the
20 transport of LNG into sites that currently exist,
21 or sites, greenfield sites, that are being proposed
22 for LNG plants. They are not shown as such on the
23 Draft EIS, but we all know they are in Providence
24 and in Fall River, and potentially at

1 Brayton Point.

2 I think the public ought to really be
3 aware that the Corps of Engineers may be enabling
4 the transport of large tankers of LNG past bridges,
5 under bridges, past settlements into urban areas
6 that -- that are congested. Any potential
7 accident, namely a fire, would be disastrous. It
8 would -- it would be virtually unextinguishable. I
9 say that as an engineer. There is no
10 infrastructure in place, no technology exists that
11 would put out such a fire. It would be several
12 orders of magnitude more disastrous than the fire
13 balls that developed around the World Trade Center
14 three years ago. I think people need to realize
15 that, and they need to understand the real danger
16 that transport by a ship movement of liquefied gas
17 from the tanker to the wharf and the plant on land
18 would be potentially devastating to those areas
19 that they're going to be those potential sites.

20 I really have no other comments at this
21 point. I do appreciate the fact that you're having
22 a public hearing so that citizens can voice their
23 concerns over this.

24 Thanks.

1 MODERATOR ROSENBERG: Thank you, sir.

2 Next speaker, Christopher Brown.

3 MR. BROWN: Good evening. My name is
4 Christopher Brown. I am the President of the Rhode
5 Island Commercial Fishermen's Association. I would
6 like to take a minute and express that the entire
7 commercial industry in the State of Rhode Island is
8 pretty much opposed to the expansionist tactics
9 employed by the Army Corps into making Rhode Island
10 not the Ocean State any longer, but maybe the ocean
11 dump site state.

12 It seems the potential for huge tracks
13 of our now currently healthy environment to turn
14 into wasteland, and hopefully, you know, they will
15 come around and benefit the next generation of
16 people who use the ocean to make a living maybe 20
17 or 30 years down the road.

18 It's an awful gamble. We don't care
19 for it. And as far as our exclusion from
20 determining the dump Site E goes, I would like to
21 point out that at no point in time were we, as an
22 organization, myself as a 30-year commercial
23 fisherman, having made roughly 30,000 sets with my
24 net within 10 miles of Block Island, ever one time

1 consulted with regards to the development of a site
2 in an area in which I make my living.

3 The standards that we, as commercial
4 fishermen, today are held to with regard to respect
5 for the environment and ecosystem destruction and
6 all the likes is -- is pretty amazing that the same
7 government that is sponsoring this kind of activity
8 is holding my feet to the fire as hard and close as
9 they are. It's -- it's amazing.

10 But in any event, thank you for having
11 the public process that we have tonight, an
12 opportunity to express my concerns, and we look
13 forward to having an opportunity to meet with you,
14 and possibly giving you our perspective on further
15 dump site selections, should there be a need.

16 Thank you.

17 MODERATOR ROSENBERG: Thank you, sir.

18 That was the last of those individuals
19 that signed in to speak.

20 Is there anyone here that did not sign
21 in to speak, or wishes to provide comment at this
22 time?

23 Just a reminder that after I turn this
24 over to the Hearing Officer for the closing

1 remarks, representatives at EPA and the Corps and
2 others associated with this project will remain to
3 have a public meeting.

4 Ladies and gentlemen, Mr. Mel Cote.

5 MR. COTE: Okay. Thanks, Larry.

6 Well, we have heard some helpful
7 statements today. Careful analysis will be
8 required before a determination can be made and a
9 decision rendered. As we've mentioned several
10 times, written statements may be submitted to the
11 EPA until five o'clock next Monday, June 21st,
12 2004. All comments will receive equal
13 consideration with those presented tonight.

14 We, at the Environmental Protection
15 Agency and the Corps of Engineers, would like to
16 thank all of you who took the time to involve
17 themselves in this public review process.

18 And finally, before I conclude this
19 hearing, I would like to extend my appreciation to
20 the Lighthouse Inn for the use of this fine
21 facility tonight and earlier today; the
22 Narragansett Police Department; and I would like to
23 thank all of you for taking the time to provide
24 some of your thoughts, your comments and your

1 concerns.

2 Good night.

3 MODERATOR ROSENBERG: This is now a
4 public meeting for you. If you have any questions,
5 please.

6 (Whereupon, the informal hearing was
7 held.)

8 (Whereupon, at 8:23 p.m., the hearing
9 was adjourned.)

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C E R T I F I C A T E

I, Marianne Kusa-Ryll, Registered Merit Reporter, do hereby certify the foregoing to be a true and complete transcript of the proceedings of the United States Army Corps of Engineers Public Hearing taken on Tuesday, June 15, 2004, at the Lighthouse Inn of Galilee, Rhode Island, Moderator Larry Rosenberg presiding.

Marianne Kusa-Ryll, RMR
Massachusetts CSR No. 116393