



**US Army Corps
of Engineers**®
New England District

696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

Date: January 30, 2007

Comment Period Ends: February 14, 2007

File Number: NAE-2007-142

In Reply Refer To: Stephen D. DiLorenzo

Or by e-mail:

Stephen.d.dilorenzo@usace.army.mil

THIS IS A 15- DAY PUBLIC NOTICE

The District Engineer has received a permit application from the applicant below to conduct work in waters of the United States as described below. The Corps is soliciting comments on both the project itself and the range of issues to be addressed in the environmental documentation.

APPLICANT

Rhode Island Department of Environmental Management
235 Promenade Street
Providence, Rhode Island 02908

ACTIVITY

The applicant proposed to maintenance dredge approximately 8,000 cubic yards of sediments from an area approximately 300,000 square feet. The area will be dredged by mechanical means with the dredged sediments disposed of seaward of mean high water off of the Matunuck shoreline and located approximately two-miles east of the Breachway.

WATERWAY, PURPOSE AND LOCATION OF THE PROPOSED WORK

This work is proposed in to take place off the State piers located in the Point Judith Harbor of Refuge at Galilee, Rhode Island. The dredging is to re-establish water depths to allow access to the commercial fishing pier. The work is shown on the enclosed plans entitled "Point Judith Harbor of Refuge", on two sheets, and dated "1/17/07".

The proposed location on the USGS quadrangle sheet is "KINGSTON, R.I." at UTM coordinates 458350 N and 290000 E.

AUTHORITY

Permits are required pursuant to:

Section 10 of the Rivers and Harbors Act of 1899

Section 404 of the Clean Water Act

Section 103 of the Marine Protection, Research and Sanctuaries Act).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against

its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended. The Corps and EPA are currently reviewing the applicant's material to determine if the sediments are suitability for disposal at the requested site.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The dredging portion of this project will impact approximately 300,000 SF of Essential Fish Habitat (EFH) for list of those species and life stages see sheets 5 and 6. Habitat at this site can be described as silt and sand. Loss of this habitat may adversely affect the species shown on attached sheets and mitigated by the implementation of special conditions restricting and dredging activity in those areas. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

The dredged material disposal is proposed for off shore. This is an open water site, which provides Essential Fish Habitat for species and life stages shown on sheets 5 and 6. Habitat at this site can be described as rubble and sands. Loss of this habitat may adversely affect the species shown on attached sheet and mitigated by the implementation of special conditions restricting the disposal activities in those areas. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

SECTION 106 COORDINATION

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

Pursuant to the **Endangered Species Act**, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved **Coastal Zone Management Programs**. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- Permit, License or Assent from State.
- Permit from Local Wetland Agency or Conservation Commission.
- Water Quality Certification in accordance with Section 401 of the Clean Water Act.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Stephen D. DiLorenzo, Senior Project Manager, at (978) 318-8373, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Robert J. DeSista
Chief, Permits and Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____

ADDRESS: _____

Summary of Essential Fish Habitat (EFH) Designation

10' x 10' Square Coordinates:

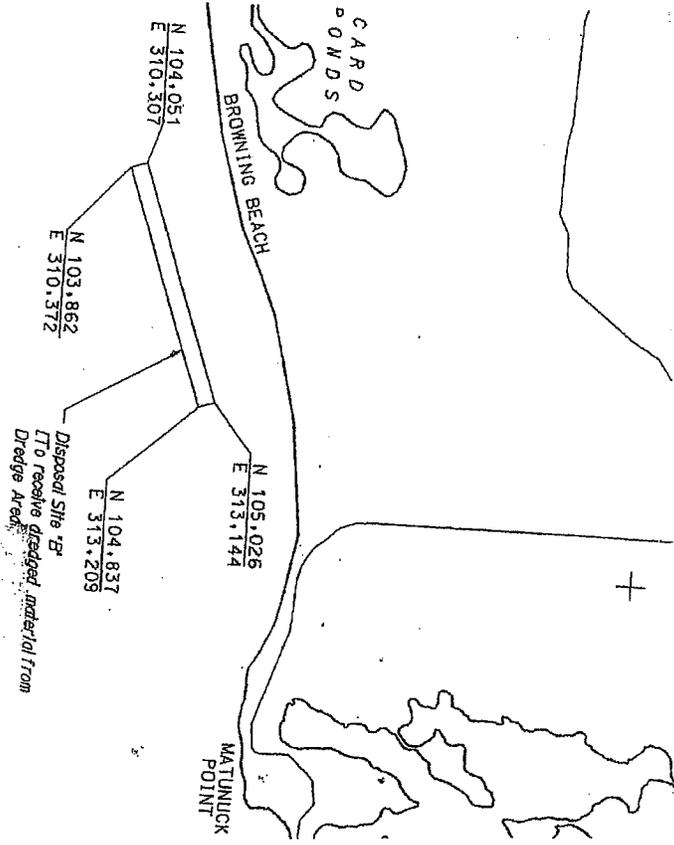
Boundary	North	East	South	West
Coordinate	41° 30.0' N	71° 30.0' W	41° 20.0' N	71° 40.0' W

Square Description (i.e. habitat, landmarks, coastline markers): Atlantic Ocean waters within the square within affecting the following: Point Judith Harbor, R. I., from the Marsh (northwest of Point Judith, R. I.) to halfway down Quonochontaug Beach. Also the following are affected by these waters: the eastern half of Quonochontaug Beach, Jerusalem R. I., Matunuck, R. I., and Green Hill, R. I., within Block Island Sound, along with Point Judith Pond, the Nebraska Shoal, and Charlestown Breachway.

Species	Eggs	Larvae	Juveniles	Adults
Atlantic cod (<i>Gadus morhua</i>)				X
haddock (<i>Melanogrammus aeglefinus</i>)				
pollock (<i>Pollachius virens</i>)				
whiting (<i>Merluccius bilinearis</i>)				
offshore hake (<i>Merluccius albidus</i>)				
red hake (<i>Urophycis chuss</i>)				
white hake (<i>Urophycis tenuis</i>)				
redfish (<i>Sebastes fasciatus</i>)	n/a			
witch flounder (<i>Glyptocephalus cynoglossus</i>)				
winter flounder (<i>Pleuronectes americanus</i>)				
yellowtail flounder (<i>Pleuronectes ferruginea</i>)				
windowpane flounder (<i>Scopthalmus aquosus</i>)				
American plaice (<i>Hippoglossoides platessoides</i>)				
ocean pout (<i>Macrozoarces americanus</i>)				
Atlantic halibut (<i>Hippoglossus hippoglossus</i>)				

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Atlantic sea scallop (<i>Placopecten magellanicus</i>)				
Atlantic sea herring (<i>Clupea harengus</i>)				X
monkfish (<i>Lophius americanus</i>)				
bluefish (<i>Pomatomus saltatrix</i>)			X	X
long finned squid (<i>Loligo pealei</i>)	n/a	n/a	X	X
short finned squid (<i>Illex illecebrosus</i>)	n/a	n/a		
Atlantic butterfish (<i>Peprilus triacanthus</i>)				
Atlantic mackerel (<i>Scomber scombrus</i>)				
summer flounder (<i>Paralichthys dentatus</i>)				
scup (<i>Stenotomus chrysops</i>)	n/a	n/a		
black sea bass (<i>Centropristus striata</i>)	n/a			
surf clam (<i>Spisula solidissima</i>)	n/a	n/a		
ocean quahog (<i>Artica islandica</i>)	n/a	n/a		
spiny dogfish (<i>Squalus acanthias</i>)	n/a	n/a		
tilefish (<i>Lopholatilus chamaeleonticeps</i>)				
king mackerel (<i>Scomberomorus cavalla</i>)	X	X	X	X
Spanish mackerel (<i>Scomberomorus maculatus</i>)	X	X	X	X
cobia (<i>Rachycentron canadum</i>)	X	X	X	X
sand tiger shark (<i>Odontaspis taurus</i>)		X		
blue shark (<i>Prionace glauca</i>)				X



NOTES:

- DISPOSAL AREA**
1. Dimensions for the Dredge Area Are:
 Length = 1,500 Feet
 Width (average) = 200 Feet
 Area = 300,000 Square Feet
 2. The area was last dredged in 1977. (Draft EA, May 2006)
 3. There are no records of any spills. Hydrocarbon results from the analytical testing confirms very low to ND levels.

