WELCOME TO THE 2024 MAINE JOINT-AGENCY OUTREACH EVENT

HOUSEKEEPING

-We will be starting at 9AM for opening remarks

-If virtual, please type your name & email into the chat.

-If here in person, please make sure to sign in at the front desk.

U.S. ARMY

US Army Corps of Engineers®
New England District

maine MAINE DEPARTMENT OF Agriculture, Conservation & Forestry

MAINE DEPARTMENT OF Environmental Protection

STATE OF MAINE MAINE HISTORIC PRESERVATION COMMISSION

AGENDA

Time:	
8:30am - 9:00am	Arrival
9:00am - 9:10am	Opening Remarks
9:10am - 10:30am	U.S. Army Corps of Engineers
10:30am - 10:45pm	Break
10:45am -11:15am	DEP & LUPC
11:15am - 12:30am	EPA
12:30pm - 1:30pm	Break for Lunch
1:30pm - 1:50pm	MHPC
1:50pm - 2:50pm	NOAA & USFWS
2:50pm – 3:00pm	Closing Remarks

U.S. ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT (CENAE)
REGULATORY DIVISION

TAMMY R. TURLEY
CHIEF, REGULATORY DIVISION

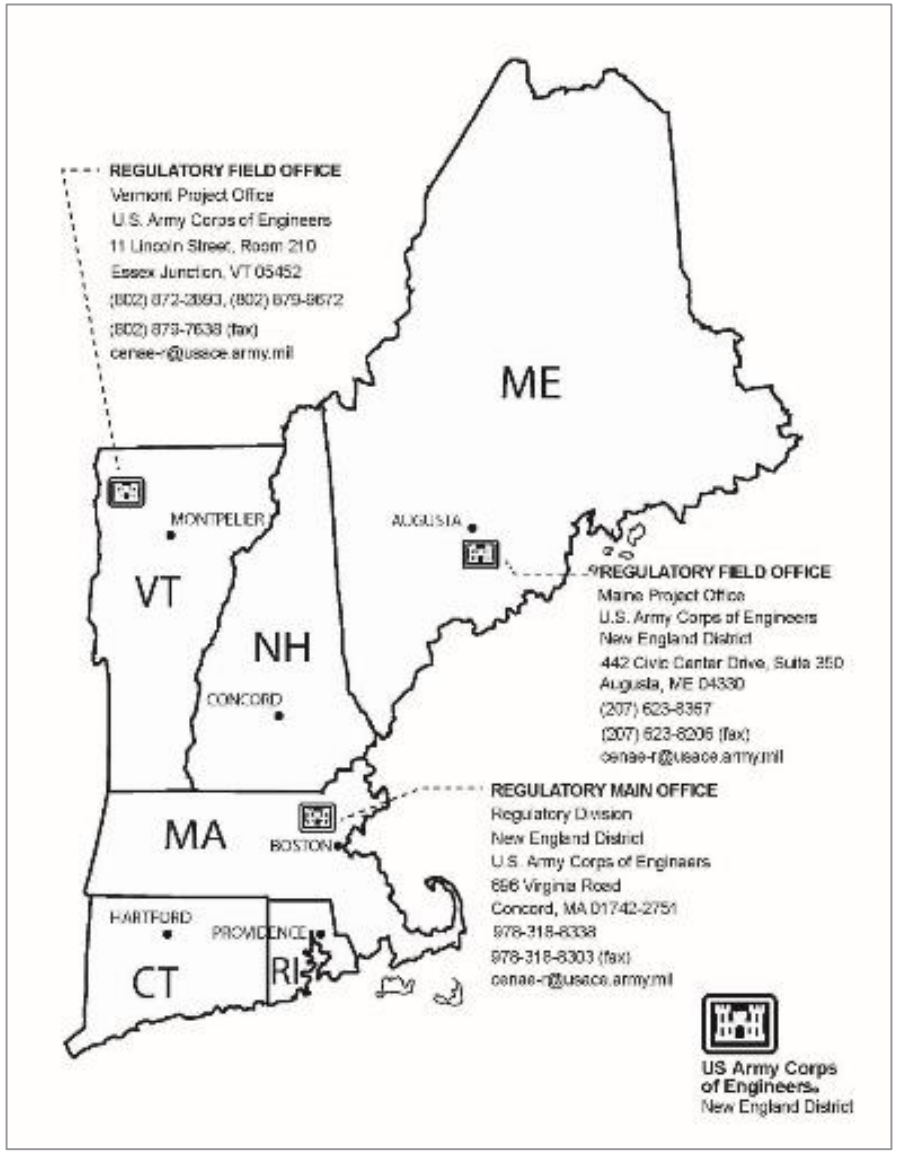
September 23, 2024

U.S. ARMY

US Army Corps of Engineers®
New England District

REGULATORY DIVISION OVERVIEW PROFILE

Tammy Turley



- 6 New England states
- 64-member interdisciplinary staff: biologists, civil & env. engineers, planners, physical scientists, admin
- Actions completed: 5000+/yr. (GPs, SPs, compliance, enforcement, NPRs, modifications, pre-apps, JDs)
- Permit actions: 3,000+/yr.
- Permits actions in Maine: ~1300/yr.
- >79% of permit actions in <60 days

U.S. ARMY

Tammy Turley
Division Chief
New England District

Management Support Branch (4)
Ryan Malterud, Deputy (temp 5 May)
- Art Harmon
- Leslie Martin
- Tina Chaisson

NAD Technical Regional Execution Center (4)
Jon Coleman, Team Lead
- Cori Rose
- Jana Jacobson
- Dale Beter, Policy Program Coord. (temp)
- Ruthann Brien, ESA SME detail

SAJ Task Force (-)
Christine Jacek, Team Lead
- Katelyn Rainville (80/20 time ratio)
- Stephanie Morrison (80/20 time ratio)
- Matt Hackett (50/50 time ratio)
- Heather Stukas (40/60 time ratio)
- Birdie Budnik (P)

Technical Support Branch (9)
Steve Rochette (temp 5 Feb)
- Greg Penta
- Paul Minkin
- Taylor Bell
- Birdie Budnik - Div Support PM
- Christine Jacek - Div Support PM
- Ruthann Brien - Div Support PM
- Erin Davis, archaeologist (temp detail)
- Nathan Dubinin, mitig specialist (temp detail)
- Div Support/408 Program Manager (vacant)

MA Section (8)
Paul Maniccia, Chief
- Abigail Thrall
- Crystal Gardner
- Ethan Hobbs
- Katelyn Rainville
- Maninder Singh
- Norm Farris
- Paul Sneeringer
- Richard Porter (DA Fellow)

CT & RI Section (7)
Kevin Kotelly, Chief
- Andrea Williams
- Beth Waterhouse
- Charlotte Skolnick (temp HQ)
- Chris Veinotte
- Paul Silva
- Paula Kullberg
- Joseph Bozzo (DA Fellow)

NH & VT Section (7)
Frank DelGiudice, Chief
- Chris Marron
- Mike Hicks
- Rick Kristoff
- Stephanie Morrison
- Lindsey Lefebvre
  (IWR w/Reg support)

VT Project Office
- Mike Adams
- Angela Repella

ME Section (7)
Peter Olmstead, Chief
- Amanda Sayles
- Heather Stukas
- Jeremy Lessard
- Shawn Mahaney (retire 12/24)
- Zach Normile
- Nickie Cammisa (temp detail)
- Therese Carpenter (temp detail)
- Rachel Antieau (temp detail)

Trans & Utility Section (10)
Dan Breen, Chief
MA DOT
- Dan Vasconcelos
- Kevin Newton

CT DOT
- Eva Szigeti
- Vacant

RI DOT/RI Energy
- Matt Hackett

NH DOT
- Vacant

ME DOT
- Jami MacNeil

National Grid
- Mike Wierbonics

Eversource
- Keith Goulet

Detailees
- Mason Gamble (temp detail)
- Kathleen Tucker (temp detail)

Regulators Without Borders

USACE NATIONAL REGULATORY MISSION/DESIRED END STATE

Tammy Turley

Lines of Effort/Investment in…..

Mission:
To protect the Nation's aquatic resources and navigation… while allowing reasonable development through fair and balanced decisions…. While striving to be more efficient.

Science & Technology Initiatives

Technical & Leadership Training

Program Efficiencies

Transparency (ORM & Public Website)

K
M

SME Input

Reg CoP Feedback

Public Feedback

End State: Balanced permit decisions that are timely, predictable, consistent, transparent, rooted in sound science and compliant with applicable laws.

OVERVIEW

- **ME Section Updates (Peter Olmstead)**
  - Maine Project Office Project Manager Contacts
  - Maine Regional General Permit Updates
  - Regulatory Request System (RRS)
- **Regulatory Division Program Authorities Overview (Amanda Sayles)**
- **Maine Permitting Process (Amanda Sayles)**
  - Types of Permit Verifications/ Authorizations & Thresholds
- **Ordinary High Water Mark (OHWM) /**
- **Wetland Delineation (Jeremy Lessard)**
- **General Permits (Zach Normile)**
- **Compensatory Mitigation (Taylor Bell)**
- **Dredging (Heather Stukas)**
- **Stream Programmatic (Heather Stukas)**

MAINE SECTION UPDATES

Peter Olmstead,
Chief, ME Section

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New England District

TEAM UPDATES

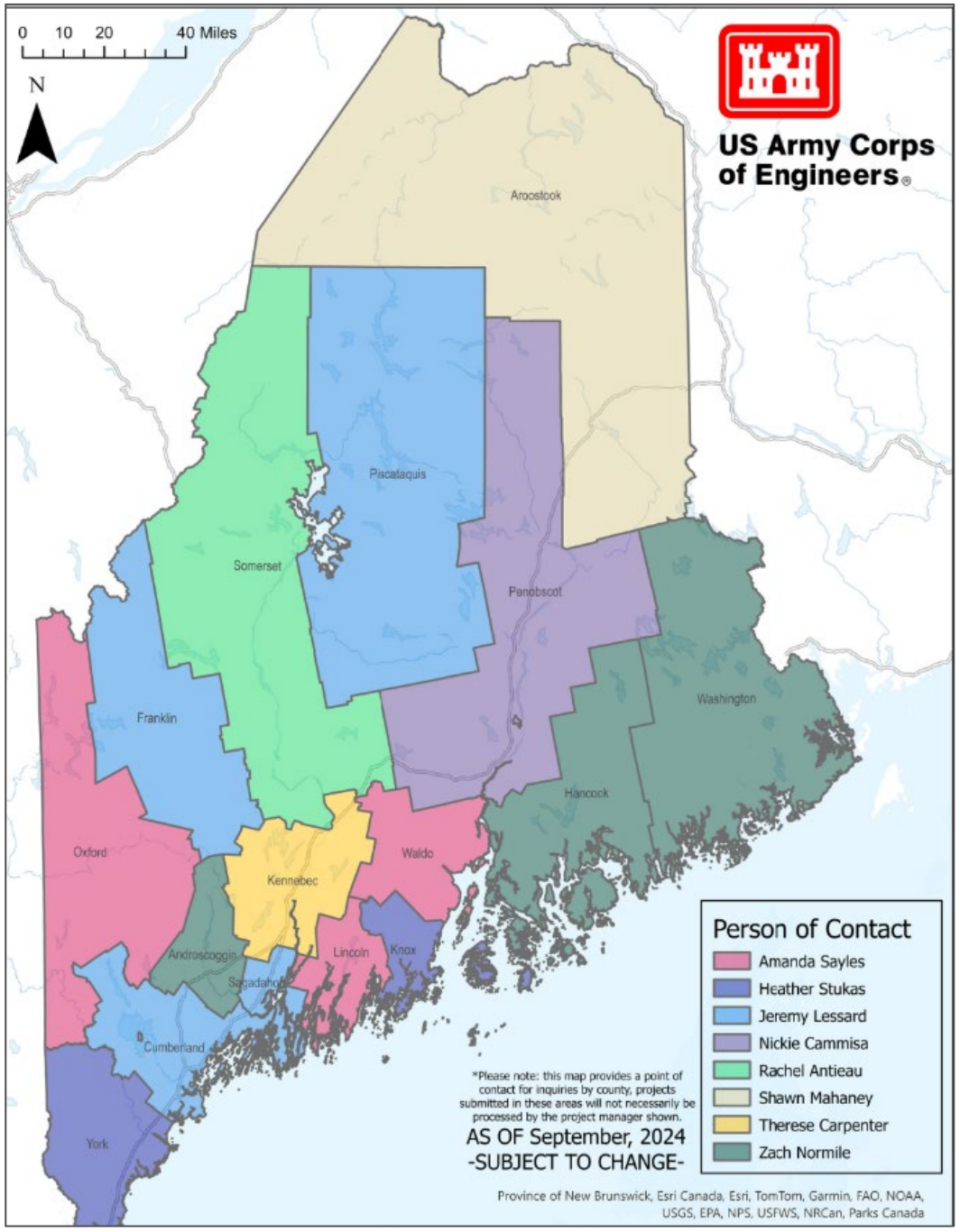
Current Team Intros

ME Section (7)
Peter Olmstead, Chief
- Amanda Sayles
- Heather Stukas
- Jeremy Lessard
- Shawn Mahaney (retire 12/24)
- Zach Normile
- Nickie Cammisa (temp detail)
- Therese Carpenter (temp detail)
- Rachel Antieau (temp detail)

Departures:
LeeAnn Neal- retired 6/24
Natalie Bingham- 7/24
Shawn Mahaney- retiring 12/24

Arrivals:
Amanda Sayles- 7/24

Temp Details- 9/24
Nickie Cammisa
Therese Carpenter
Rachel Antieau



- ME Section Area of Responsibility (AOR) Map published online w/real time updates
- Provides public location contacts upfront
- Subject to change as staff & needs change
- Phone numbers & contact info by County included

Updates, News & Initiatives

- General Permits
- Compensatory Mitigation
- Data Forms
- New tools & concepts
- Hiring

We're Hiring!
www.usace.yellogov.com

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New England District

REGULATORY REQUEST SYSTEM (RRS)

Peter Olmstead

U.S. ARMY

Regulatory Program Information
Learn the basics about the Regulatory Program, including recent announcements.

Jurisdiction
Does the property in question contain wetlands/waters? If so does the Corps have jurisdiction?

Permitting
Do you need a permit? Need to schedule a pre-application meeting?

Mitigation
Discover how we help avoid and minimize impacts to aquatic resources.

Report Violations
Submit a report of unauthorized activity or permit non-compliance.

RRS Support
Get general system support, district contact information, submit feedback, and login.gov help.

Public Notices
UNDER CONSTRUCTION
Visit the HQ Regulatory website to find your district and get local public notices.

Apply for a Permit
If you're ready to apply for a permit, cli here to login or start a new request

REGULATORY DIVISION
PROGRAM AUTHORITIES OVERVIEW

Amanda Sayles, Regulatory Project Manager, ME Section

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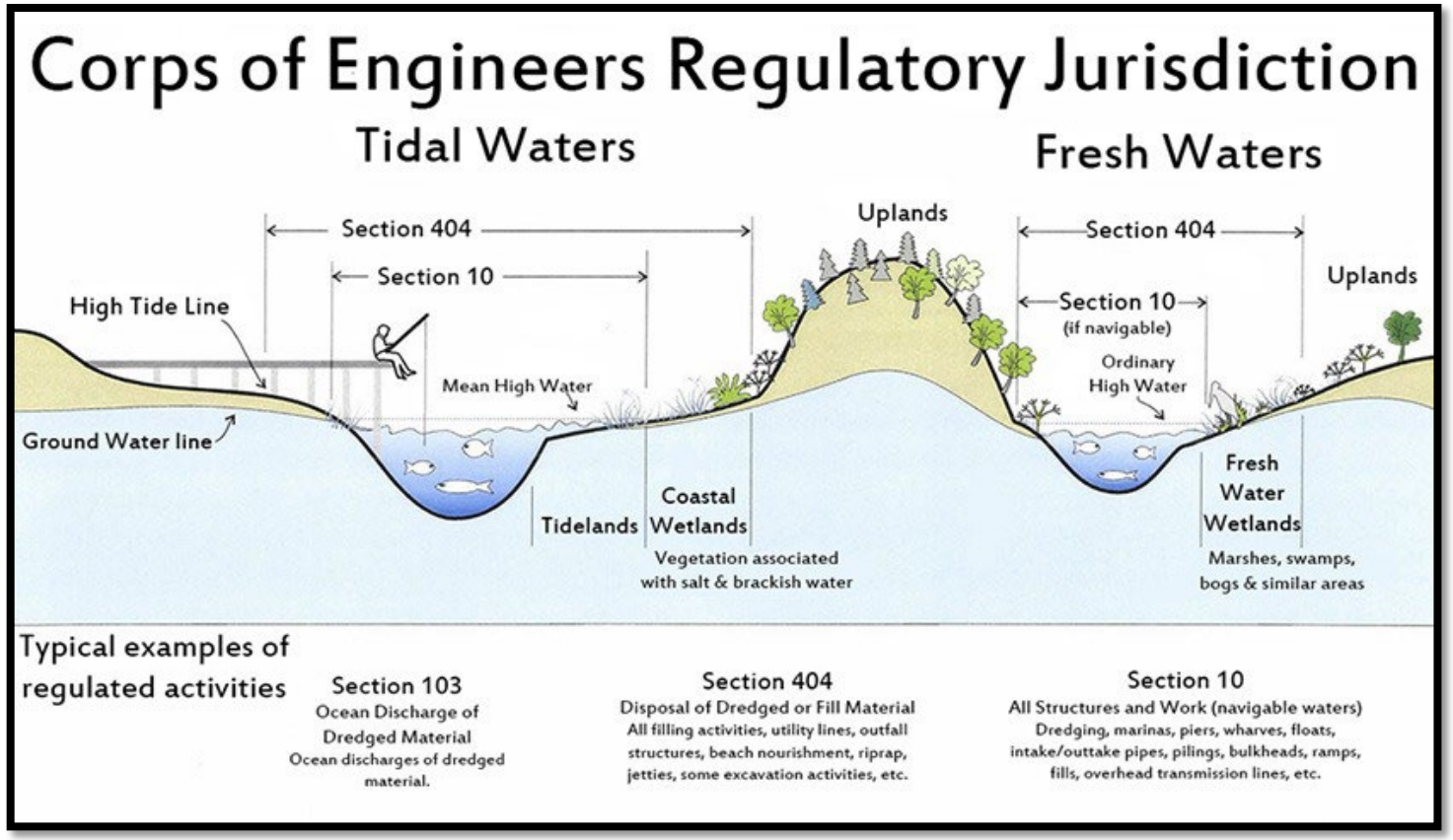
New England District

USACE REGULATORY PROGRAM AUTHORITIES

Amanda Sayles

- Section 10 - Rivers and Harbors Act of 1899 (RHA)
  - Regulate work in, over or under navigable waters of the U.S.
- Section 404 - Clean Water Act of 1972 (CWA)
  - Regulate discharges of dredged & fill material in waters of the U.S.
- Section 103 – Marine Protection Research and Sanctuaries Act (MPRSA)
  - The transportation of dredged material for the purpose of disposal within ocean waters.



SECTION 10 OF THE RIVERS AND HARBORS ACT

Amanda Sayles

Waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

Waters in ME:

- All waters subject to ebb and flow of the tide
- The Kennebec River to Moosehead Lake
- The Penobscot River to the confluence of the East and West Branch at Medway
- Lake Umbagog

SECTION 404 OF THE CLEAN WATER ACT

Amanda Sayles

The discharge of dredged or fill material into **all** waters of the U.S. (WOTUS)

Fill Material =

1) Replacing any portion of a WOTUS with dry land or;
2) Changing the bottom elevation of any portion of a WOTUS.


Cofferdam


Side Casting


Wetland Crossing


Stream Enhancement

SECTION 404 OF THE CLEAN WATER ACT

Amanda Sayles

Discharge Of Dredged Or Fill Material Is **NOT**:

- Excavation
- Activities that involve only the cutting or removing of vegetation above the ground (mowing, rotary cutting, chain-sawing)
- Pile driving (without cement footer)


Raised Bog Bridge


Pile Driving Posts


Cutting Trees
NOT Stumping

JURISDICTIONAL DETERMINATIONS

Amanda Sayles

A jurisdictional determination (JD) is a **written** USACE determination that a wetland and/or waterbody is subject to regulatory jurisdiction under Section 404 of the Clean Water Act or under Section 9 or 10 of the Rivers and Harbors Act of 1899 (33 CFR 331.2).

- Two types: **Preliminary** Jurisdictional Determination (PJD)
  Approved Jurisdictional Determination (AJD)

- JDs are typically made at the request of the landowner or project proponent. USACE generally does not issue a JD of any type when a JD is not requested.

- Additional information can be found in the USACE Regulatory Guidance Letter (RGL) 16-01, including the request form: https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Guidance-Letters/

REGULATORY DIVISION
MAINE GENERAL PERMITS

Amanda Sayles, Regulatory Project Manager, ME Section

U.S. ARMY

US Army Corps of Engineers®
New England District

ME REGIONAL GENERAL PERMITS (RGPs)

Amanda Sayles

Applicant: General Public, State of Maine

Effective Date: October 14, 2020
Expiration Date: October 14, 2025

DEPARTMENT OF THE ARMY
GERNERAL PERMITS FOR
THE STATE OF MAINE

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues 23 General Permits (GPs), listed below, for activities subject to Corps jurisdiction in waters of the United States within the boundaries of the State of Maine including tribal lands, and in adjacent ocean waters to the seaward limit of the outer continental shelf. These GPs are issued in accordance with Corps regulations at 33 CFR 320 – 332 and specifically 33 CFR 325.2(e)(2). These GPs will protect the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental effects.

I. CORPS JURISDICTION

1. Permits are required from the Corps for the following work:
   a. The construction of any structure in, over, or under any navigable water of the U.S. (see 33 CFR 328), the excavating or dredging from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters. The Corps regulates these activities under Section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR 322);
   b. The discharge of dredged or fill material and certain discharges associated with excavation into waters of the U.S. including wetlands. The Corps regulates these activities under Section 404 of the Clean Water Act (see 33 CFR 323); and
   c. The transportation of dredged material for the purpose of disposal in the ocean. The Corps regulates these activities under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (see 33 CFR 324).

2. Related laws: Section 408 of the Rivers and Harbors Act of 1899, Section 401 of the Clean Water Act, Section 402 of the Clean Water Act, Section 307(c) of the Coastal Zone Management Act of 1972, Section 106 of the National Historic Preservation Act of 1966, Section 7 of the Endangered Species Act, the Fish and Wildlife Coordination Act of 1956, the Magnuson-Stevens Fishery Conservation and Management Act, Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, and Section 7(a) of the Wild and Scenic Rivers Act.

ME REGIONAL GENERAL PERMITS (RGPs)

Amanda Sayles

23 ACTIVITY-BASED GPs

1. Repair, Replacement, and Maintenance of Authorized Structures and Fills
2. Moorings
3. Structures, Floats and Lifts
4. Aids to Navigation, and Temporary Recreational Structures
5. Dredging, Disposal of Dredged Material, Beach Nourishment, and Rock Removal and Relocation
6. U.S. Coast Guard Approved Bridges and Causeways
7. Bank and Shoreline Stabilization Including Living Shorelines
8. Residential, Commercial and Institutional Developments, and Recreational Facilities
9. Utility Line Activities
10. Linear Transportation Projects
11. Mining Activities
12. Boat Ramps and Marine Railways
13. Land and Water-Based Renewable Energy Generation Facilities and Hydropower Projects
14. Reshaping Existing Drainage Ditches and Mosquito Management
15. Response Operations for Oil or Hazardous Substances
16. Cleanup of Hazardous and Toxic Waste
17. Scientific Measurement Devices
18. Survey Activities
19. Agricultural Activities
20. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices
21. Habitat Restoration, Establishment and Enhancement Activities
22. Stream and Wetland Work and Crossings
23. Aquaculture

U.S. ARMY

GP # 1 REPAIR, REPLACEMENT & MAINTENANCE OF AUTHORIZED STRUCTURES & FILLS

Amanda Sayles

GENERAL PERMIT #	SELF-VERIFICATION	PRE-CONSTRUCTION NOTIFICATION
1. Repair, Replacement, and Maintenance of Authorized Structures and Fills **See GC 25 for pile driving and removal conditions.*	Repair, replacement, or maintenance of previously authorized, currently serviceable structures or fills, provided: • Conditions of the original authorization apply. • No expansion or change in use. Shall be rebuilt in same footprint, however minor deviations in design allowed. • The repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events is authorized, provided that work is commenced, or is under contract to commence, within two years of the date of their destruction or damage. • In-water work is conducted "in-the-dry" (see GC 24). • No impacts to special aquatic sites (SAS) (incl. submerged aquatic vegetation, SAV), impacts to natural rocky habitat ≤100 SF, and impacts to intertidal area ≤1,000 SF • Slope stabilization is ≤500 LF in total length as measured below the plane of the HTL and is ≤200 LF in total length as measured below the plane of the MHWM or OHWM. Vertical structures are ≤200 LF in total length as measured below the plane of the MHWM or OHWM and are ≤18 inches waterward of existing face. • Dam and flood control, or levee work does not alter water levels or flood elevations. • Discharge of accumulated bottom sediments from or through a dam is not more than *de minimus*. • Tide gate work has a Corps-approved operation and maintenance plan and no effect to hydraulic regime, or tide gates that solely convey stormwater and/or Maine National Pollutant Discharge Elimination System-permitted discharges.	Repair, replacement, or maintenance of previously authorized structures or fills not eligible for SV, provided: • ≤0.5 acre temporary or permanent impacts, fill, excavation, and/or secondary impacts. • Temporary and/or permanent fill or excavation in SAV <1,000 SF • Permanent fill or excavation in other SAS <4,300 SF

USACE PERMITS

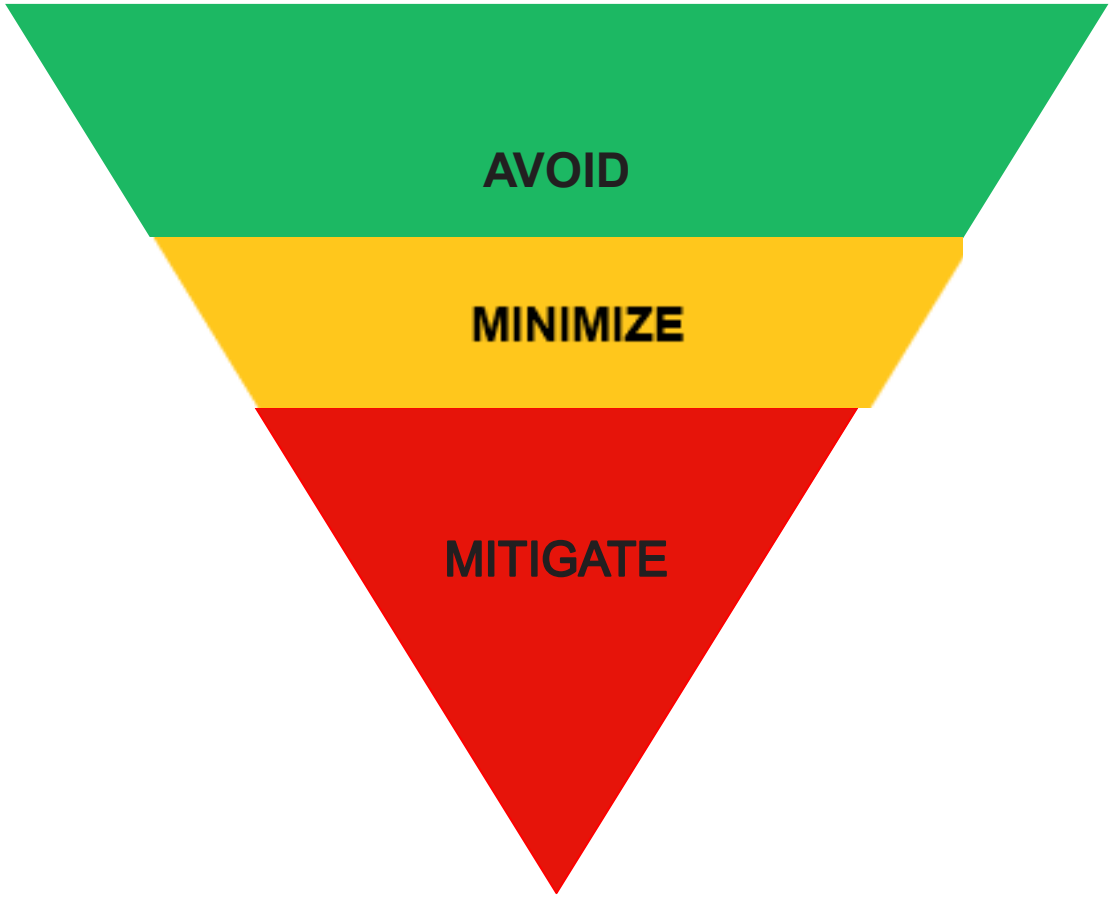
Amanda Sayles

Maine Regional General Permits (23 Activity Base GPs)		Individual Permit
Self-Verification (SV)	**Pre-Construction Notification (PCN)**	
Applicant ensures all General Conditions are met	Possible Special Conditions required by the USACE	Possible Special Conditions required by the USACE
Email from the USACE	Permit Verification via Letter	Permit Decision via Letter
Wetland Data Sheets available to be submitted to the USACE	Wetland Data Sheets Required	Wetland Data Sheets Required
-Avoidance/ Minimization should be demonstrated on plans	-Avoidance/ Minimization should be demonstrated on plans then mitigation -On site alternatives	-Avoidance/ Minimization should be demonstrated on plans then mitigation -On site alternatives -Off Site Alternative Analysis

GENERAL CONDITION #9: MITIGATION
(AVOIDANCE, MINIMIZATION, & COMPENSATORY MITIGATION)

Amanda Sayles

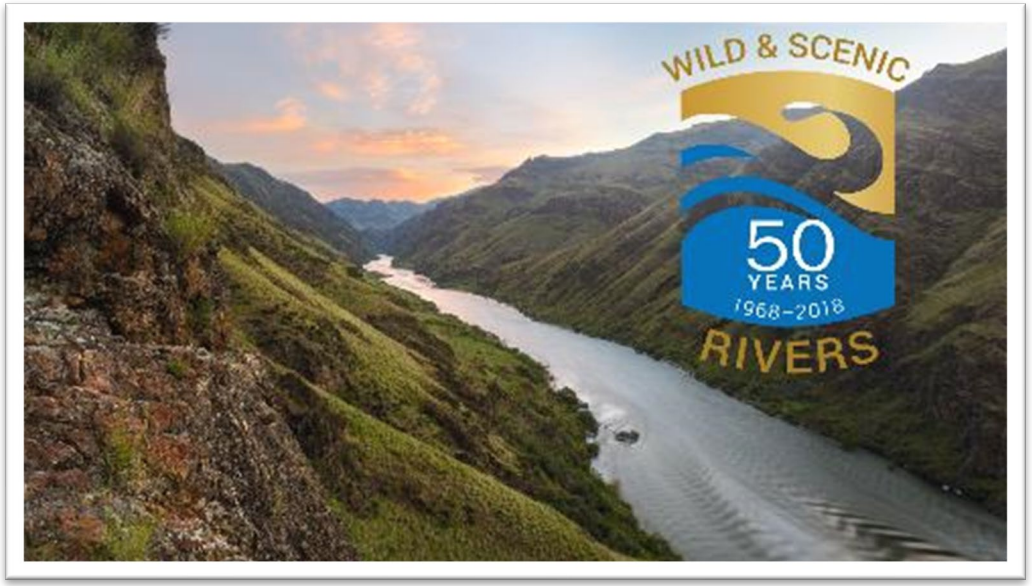
- **AVOID IMPACTS** to waters of the U.S. to the maximum extent practicable
- **MINIMIZE IMPACTS** to waters of the U.S. to the maximum extent practicable
- **MITIGATE** for the unavoidable impacts of the project
  - ME in-lieu-fee



USACE REGULATORY PROGRAM
RELATED LAWS & REGULATIONS

Amanda Sayles

- National Environmental Policy Act (NEPA)
- Wild and Scenic Rivers Act
- National Historic Preservation Act (NHPA)
- Endangered Species Act (ESA)
- Magnuson-Stevens Fishery Conservation & Management Act (EFH)



ORDINARY HIGH WATER MARK

Jeremy Lessard, PWS, Regulatory Project Manager, ME Section

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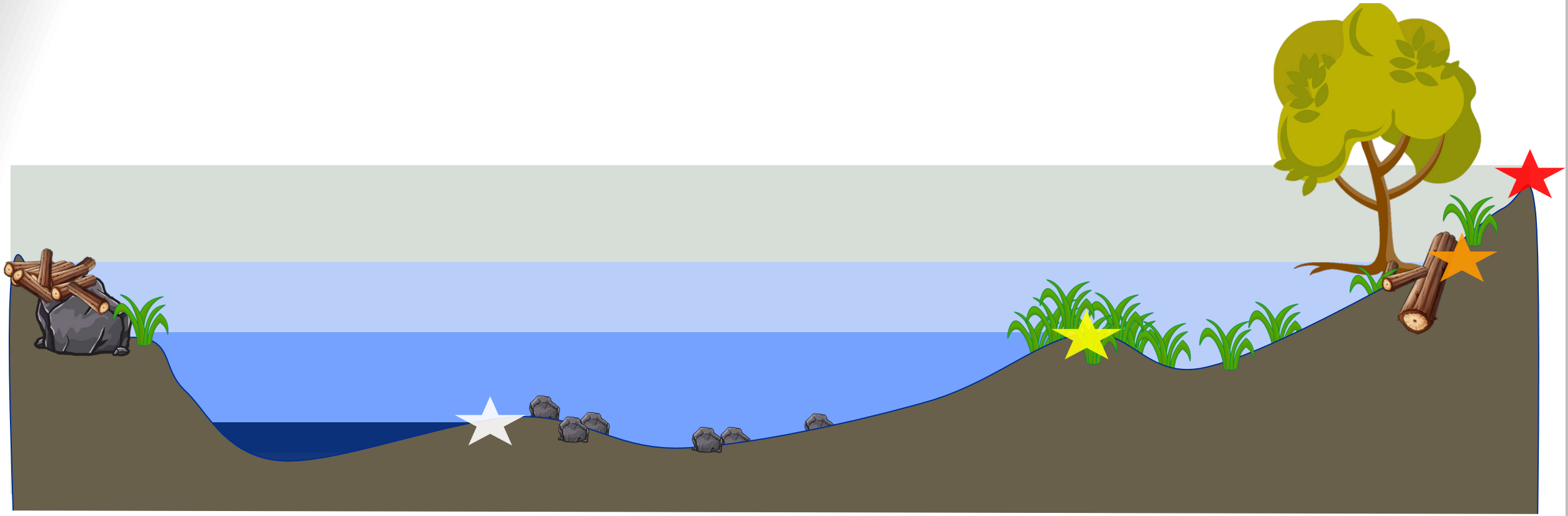
New England District

ORDINARY HIGH WATER MARK DELINEATION

Jeremy Lessard

POP-QUIZ!!!



ORDINARY HIGH WATER MARK

Jeremy Lessard

What is it?

- It's a regulatory boundary utilized by USACE
- The OHWM demarcates the lateral extent of waterways protected under Sections 9 and 10 Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

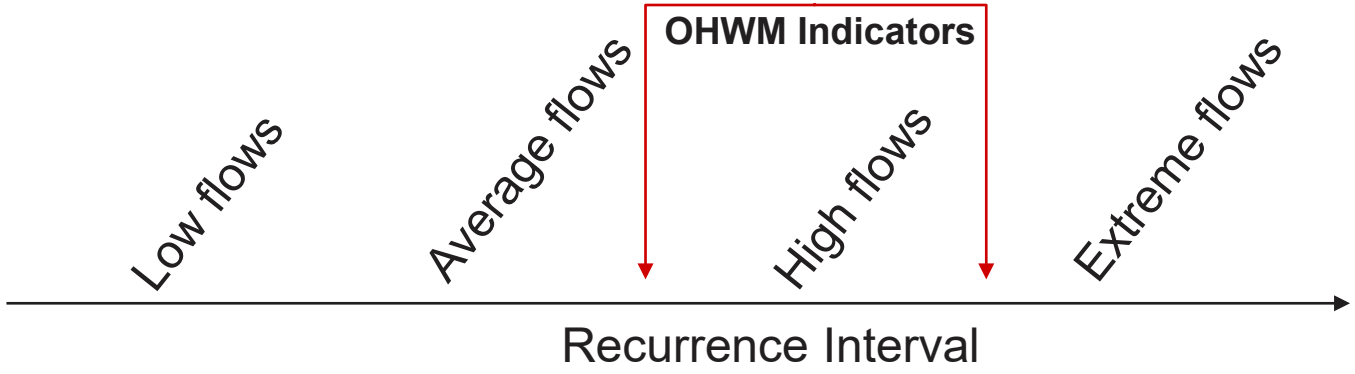
The term ordinary high water mark "means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas." (33 CFR 328.3(e))

"Maintenance of an active channel"

WELL, WHAT IS "ORDINARY HIGH WATER"?

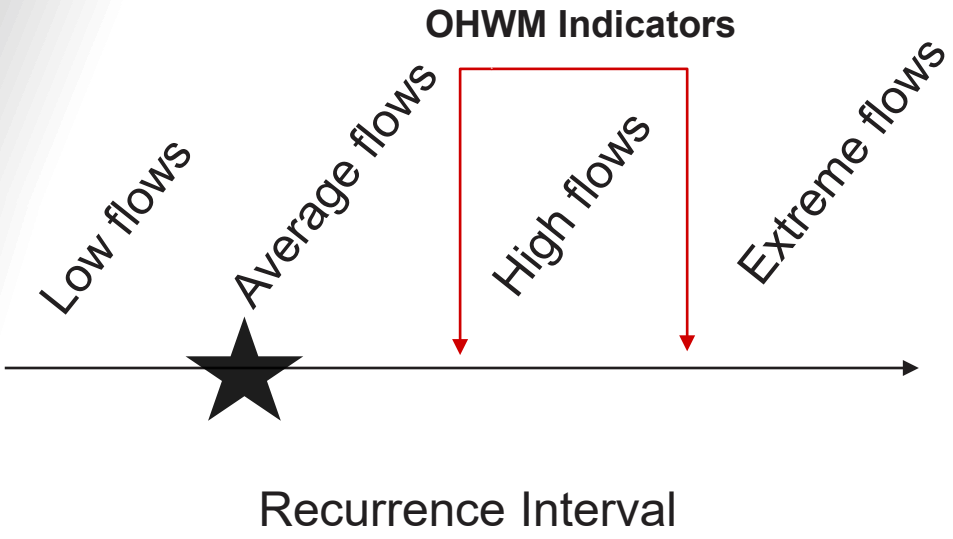
Jeremy Lessard

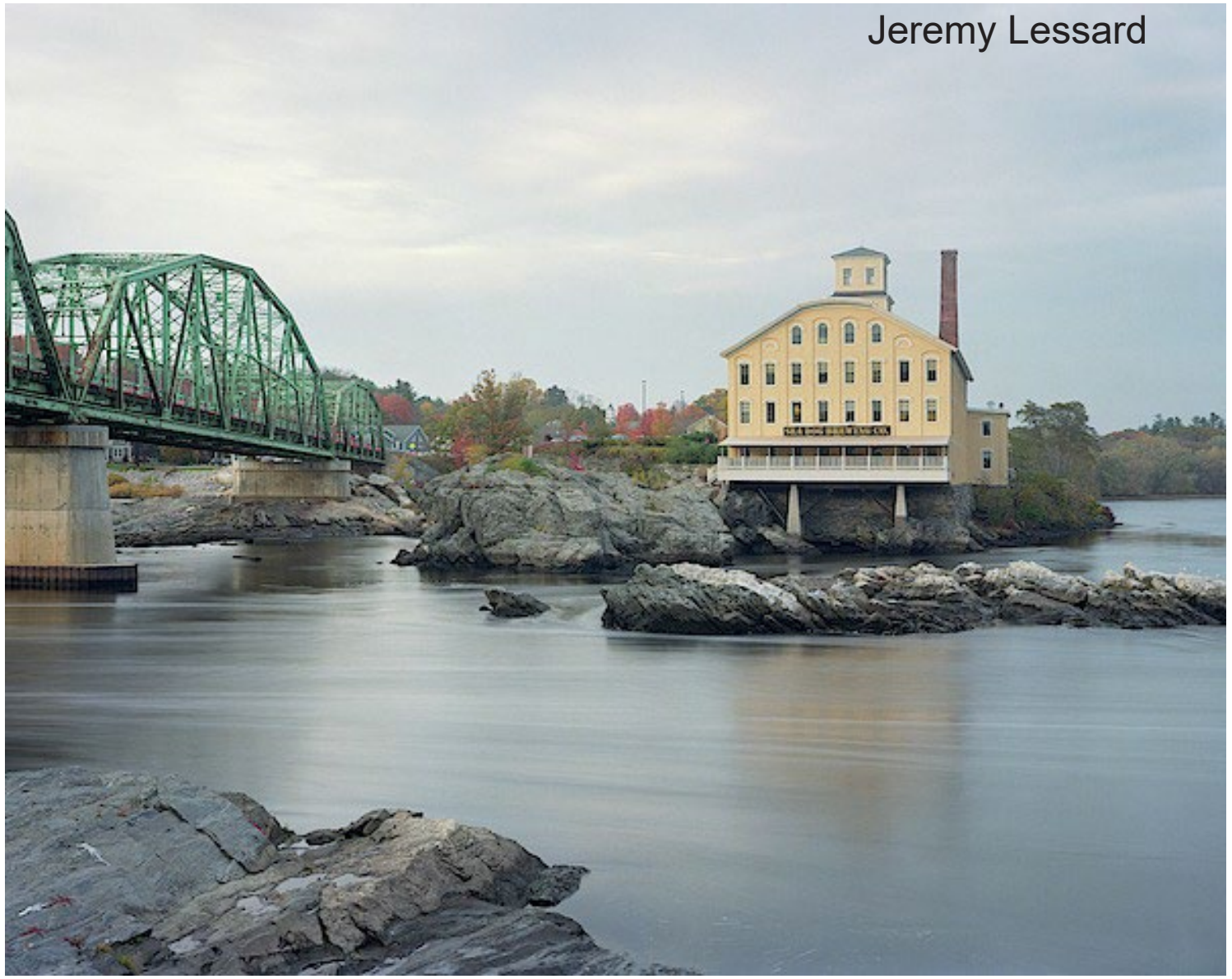
- Ordinary high water implies that water levels are above average, and less than extreme, that occur with some regularity.



- OHWM is not associated with a specific flow recurrence interval (e.g. the 5-year discharge)

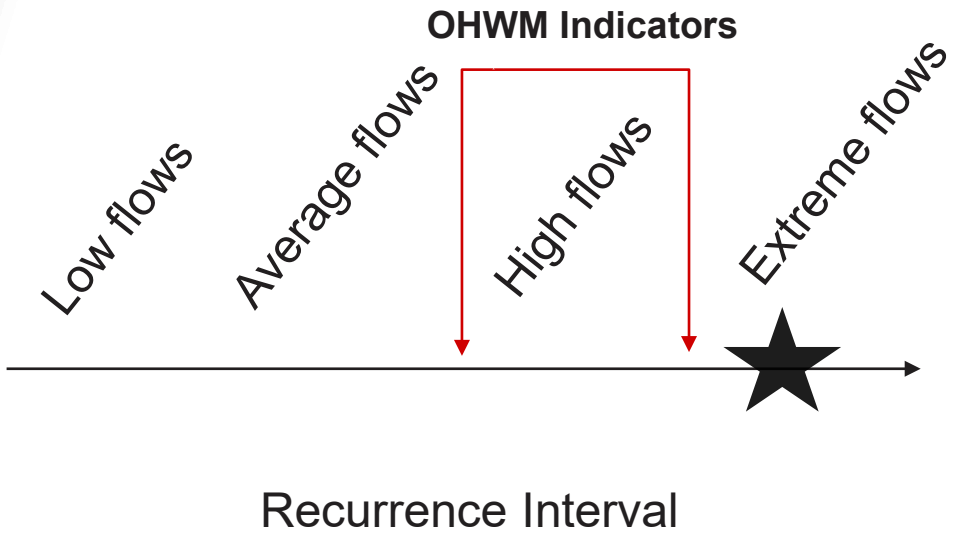
WELL, WHAT IS “ORDINARY HIGH WATER”?





WELL WHAT IS “ORDINARY HIGH WATER”?

Jeremy Lessard



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GEOMORPHIC VS HYDROLOGIC

KEY CONCEPTS

Jeremy Lessard

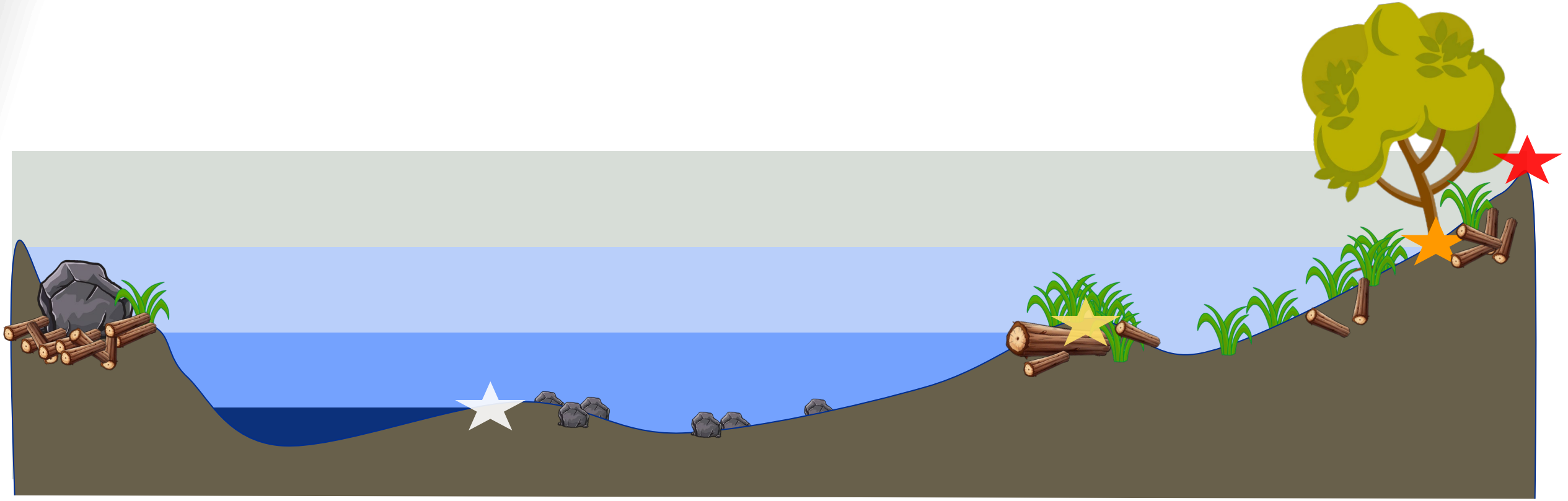
- The concept of “ordinary high water” encompasses water levels that are **above average, but not extreme**, and occur with regularity
- The OHWM is generally represented by the **physical characteristics and indicators** on the landscape (Geomorphic vs Hydrologic approach)
- Indicators of ordinary high water should be **stable over time** and ordinary in nature (i.e. relatively stable, consistently present and readily identifiable over time by different investigators)
- **No strict flow regime/definition per regulations**

ORDINARY HIGH WATER MARK DELINEATION

U.S. ARMY

Jeremy Lessard

Post-QUIZ!!!



WETLAND DELINEATION

Jeremy Lessard, PWS, Regulatory Project Manager, ME Section

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New England District

WETLAND DELINEATION

Jeremy Lessard

- The mission of the U.S. Army Corps of Engineers (USACE) Regulatory Program is to protect the nation's aquatic resources and navigable capacity while allowing economic development through fair and balanced decisions.
- The Clean Water Act aims to restore and maintain the chemical, physical, and biological integrity of the Nation’s Waters.
- Providing aquatic resource data to the regulatory team is essential in ensuring that USACE (and others) conducts regulatory reviews in accordance with these stated missions.
- Generally, the higher the quality the data provided, the easier the review process.

AUTOMATED WETLAND DELINEATION DATA FORMS

U.S. ARMY

Regulatory Menu

- NEW: Clean Water Rule 2015
- Public Notices
- State General Permits
- Permits Issued
- Jurisdiction and Wetlands
- Mitigation +
- Invasive Species
- Dredged Material Program
- Stream and River Continuity
- Naturalized River Restoration and Bank Stablization
- Vernal Pools

Wetland Delineation Manual/Forms

Sections of the January 1987 Corps of Engineers Wetland Delineation Manual have been superseded and distilled into regional supplements. A link for the supplement that is applicable to the six New England states is provided below. This supplement includes citations and highlights changes to the January 1987 Corps of Engineers Wetland Delineation Manual.

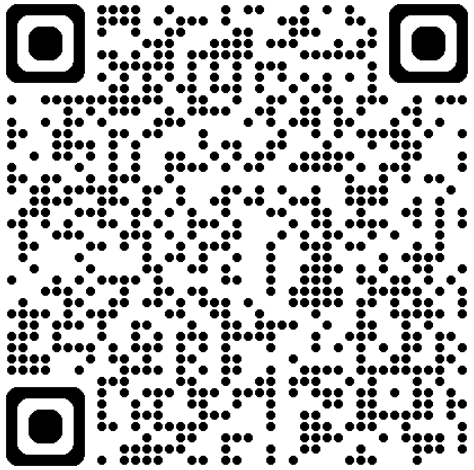
Downloads:

- Corps of Engineers Wetland Delineation Manual
- Wetland Delineation Manual, Northcentral / Northeast Supplement
- Wetland Determination Data Form, Northcentral and Northeast Region

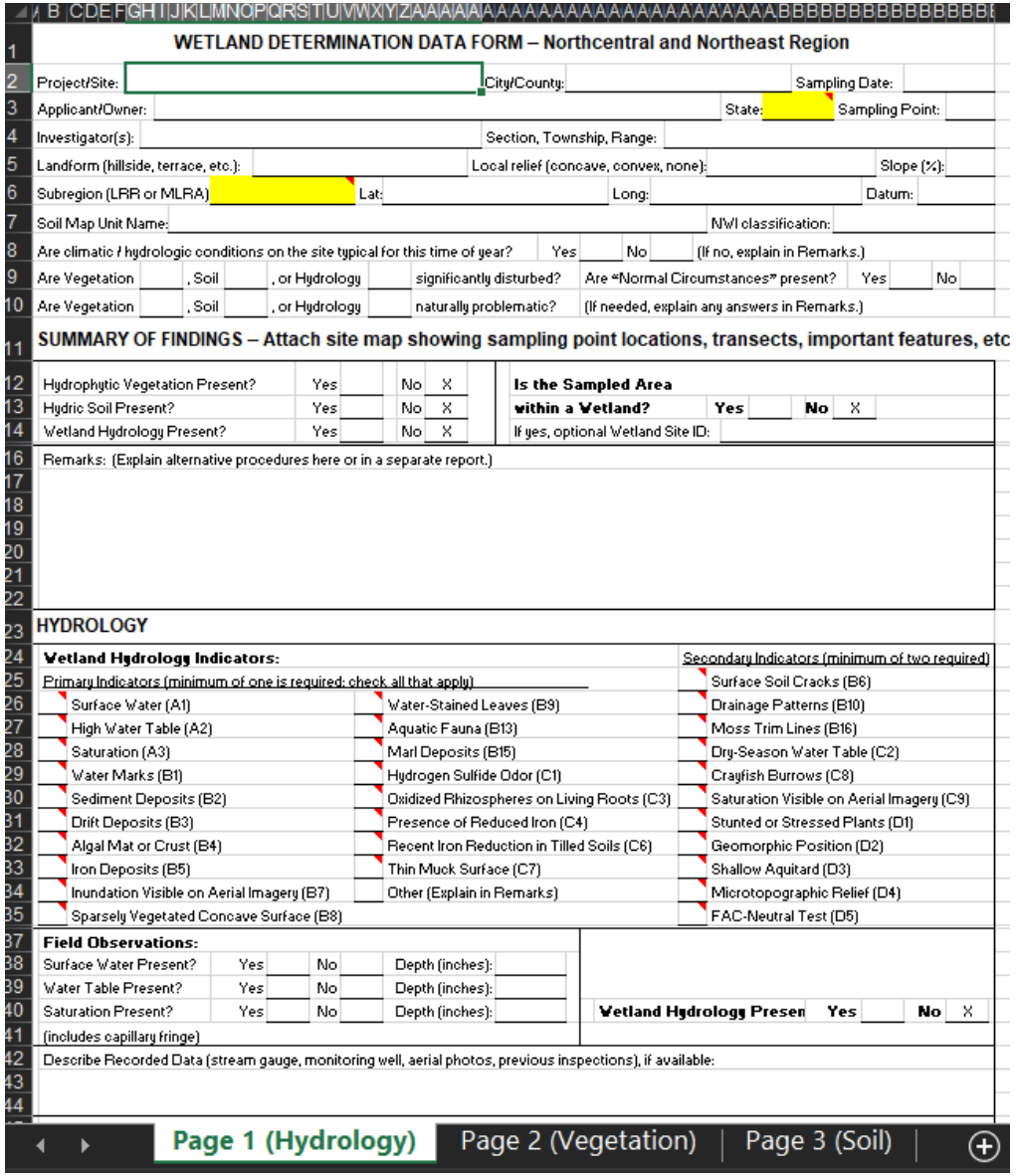
Automated Wetland Determination Data Form from Corps of Engineers, Detroit District

- User Guide Automated Wetland Determination Data Form (Northcentral-Northeast Region) v1.26
- Automated Wetland Determination Data Form (Northcentral-Northeast Region) v1.08

Updated: July 17, 2020



[New England District > Missions > Regulatory > Jurisdiction and Wetlands > Wetland Delineation Manual (army.mil)]



WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region

Project/Site: | City/County: | Sampling Date:
Applicant/Owner: | State: | Sampling Point:
Investigator(s): | Section, Township, Range:
Landform (hillside, terrace, etc.): | Local relief (concave, convex, none): | Slope (%):
Subregion (LRR or MLRA) | Lat: | Long: | Datum:
Soil Map Unit Name: | NWI classification:
Are climatic / hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks.)
Are Vegetation , Soil , or Hydrology significantly disturbed? Are "Normal Circumstances" present? Yes No
Are Vegetation , Soil , or Hydrology naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc

Hydrophytic Vegetation Present?	Yes	No X	Is the Sampled Area
Hydric Soil Present?	Yes	No X	within a Wetland? Yes No X
Wetland Hydrology Present?	Yes	No X	If yes, optional Wetland Site ID:

Remarks: (Explain alternative procedures here or in a separate report.)

HYDROLOGY

Wetland Hydrology Indicators:		Secondary Indicators (minimum of two required)
Primary Indicators (minimum of one is required; check all that apply)		Surface Soil Cracks (B6)
Surface Water (A1)	Water-Stained Leaves (B9)	Drainage Patterns (B10)
High Water Table (A2)	Aquatic Fauna (B13)	Moss Trim Lines (B16)
Saturation (A3)	Marl Deposits (B15)	Dry-Season Water Table (C2)
Water Marks (B1)	Hydrogen Sulfide Odor (C1)	Crayfish Burrows (C8)
Sediment Deposits (B2)	Oxidized Rhizospheres on Living Roots (C3)	Saturation Visible on Aerial Imagery (C9)
Drift Deposits (B3)	Presence of Reduced Iron (C4)	Stunted or Stressed Plants (D1)
Algal Mat or Crust (B4)	Recent Iron Reduction in Tilled Soils (C6)	Geomorphic Position (D2)
Iron Deposits (B5)	Thin Muck Surface (C7)	Shallow Aquitard (D3)
Inundation Visible on Aerial Imagery (B7)	Other (Explain in Remarks)	Microtopographic Relief (D4)
Sparsely Vegetated Concave Surface (B8)		FAC-Neutral Test (D5)

Field Observations:

Surface Water Present?	Yes	No	Depth (inches):	
Water Table Present?	Yes	No	Depth (inches):	
Saturation Present? (includes capillary fringe)	Yes	No	Depth (inches):	Wetland Hydrology Present? Yes No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Page 1 (Hydrology) | Page 2 (Vegetation) | Page 3 (Soil)

WETLAND DELINEATION DATA FORM REQUESTS

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- Delineations consistent with the 1987 Wetland Delineation Manual, should collect sufficient data to fill out a data sheet
- Data sheets are not always required, but must be presentable should USACE request.

Data forms are required for:

- Projects exceeding 5,000SF of impact
- Project requests an AJD
- Project Manager discretion

Data sheets are the bare minimum, a full delineation report will expedite regulatory review process (e.g. regional context and significance)

Information that may be required:

- Photographs of wetland/waterway to be impacted. Photos at low tide are preferred for work in tidal waters.
- For drawings, sketches, or plans:
  - The vertical datum for all coastal projects and projects in towns bordering coastal waters shall be in U.S. survey feet and referenced to MLLW and include current tidal epoch, with a reference chart showing conversion factor to the North American Vertical Datum of 1988. Do not use local datum. See *www.nae.usace.army.mil/missions/regulatory* >> Forms and Publications >>Vertical Datum - FEMA(Jul 2007);
  - The horizontal state plane coordinates shall be shown on plan and elevation views and shall be in the North American Datum of 1983 (NAD83) State Plane Coordinate System in U.S. survey feet.
- For the construction of a filled area or pile or float-supported platform, the use of, and specific structures to be erected on, the fill or platform.
- For the discharge of dredged or fill material into waters of the U.S. or the transportation of dredged material for the purpose of disposing of it in ocean waters, the source of the material; the purpose of the discharge, a description of the type, composition and quantity of the material; the method of transportation and disposal of the material; and the location of the disposal site.
- For the discharge of dredged or fill material into waters of the U.S., include a statement describing how impacts to waters of the U.S. are to be avoided and minimized. Include either a statement describing how impacts to waters of the U.S. are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts.
- Purpose and need for the proposed activity;
- Limits and coordinates of any Federal Navigation Project in the vicinity of the project area.
- Limits and coordinates of any proposed mooring field, reconfiguration zone or aquaculture activity. Provide coordinates for all corners;
- Schedule of construction/activity;
- Names and addresses of adjoining property owners;
- Location and dimensions of adjacent structures;
- Alternatives analysis;
- Wetland delineation data sheets;
- List of authorizations required by other federal, interstate, state, or local agencies for the work, including all approvals received or denials already made.
- Identification and description of potential impacts to Essential Fish Habitat (see GC 17).
- Identification of potential discharges of pollutants to waters, including potential impacts to impaired waters, in the project area.

GENERAL PERMITS & ME AQUACULTURE PROGRAMMATIC GENERAL PERMIT INITIATIVE

Zachary Normile, Regulatory Project Manager, ME Section

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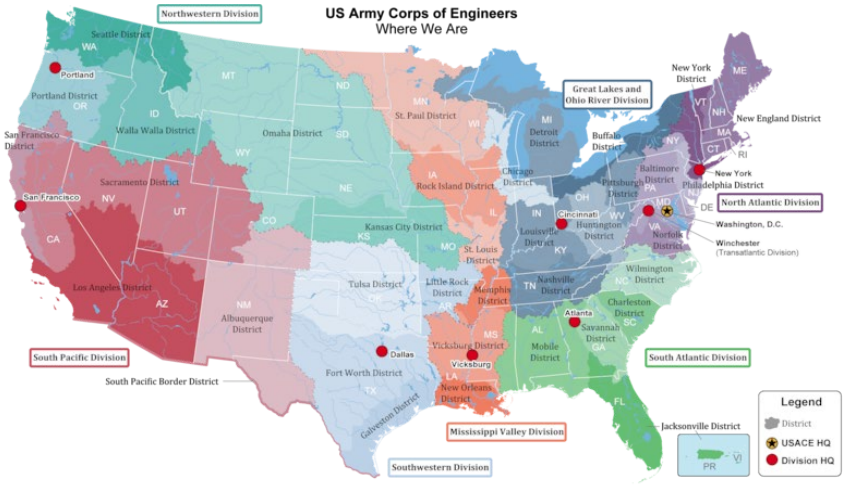
GENERAL PERMITS: STREAMLINED PERMIT PROCESSES THAT RESULT IN NO MORE THAN MINIMAL ADVERSE IMPACTS (GOOD FOR 5 YEARS)

Nationwide Permit (NWP)

- Type of general permits issued by USACE Headquarters (59)
- Used to authorize activities across the country, districts add regional conditions
- Certain minor activities are generally non-reporting (0.1 ac)



Regional General Permit (RGP)

- Type of general permit issued at the division / district level
- Usually used in conjunction with NWP to meet regional needs
- Specific RGPs can supplement specific NWPs

Programmatic General Permit (PGP)

- Type of general permit founded on an existing local, state, or federal program
- Authorizes certain activities approved by other program, provided it complies with a set of conditions
- Designed to avoid duplication

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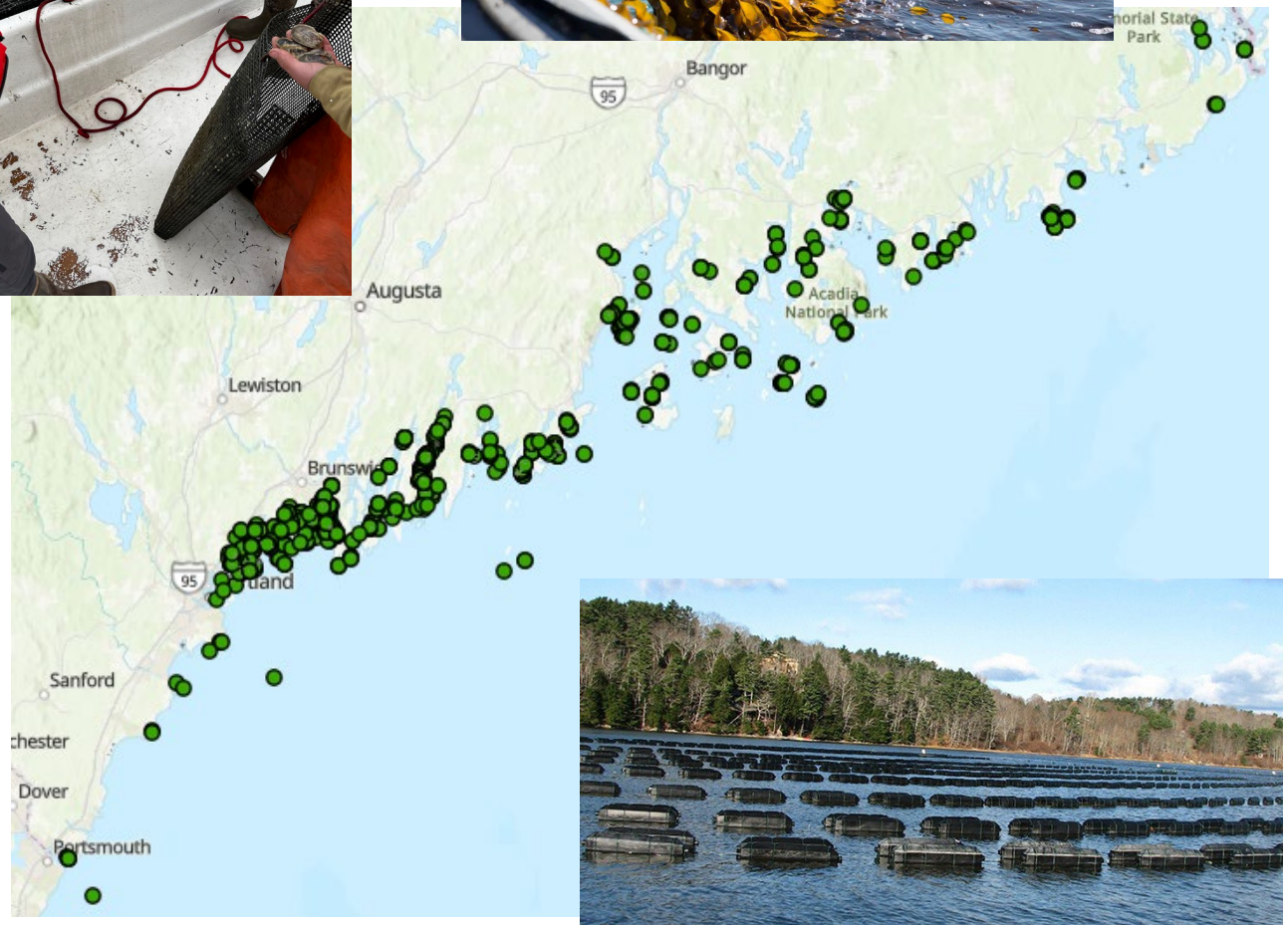
AQUACULTURE IN MAINE

- Aquaculture has exploded across the state of Maine
- 2023-2024, aquaculture alone has constituted ~11% of our workload
- In 2024, aquaculture has made up ~19% of our workload
- A large portion of these are small scale actions
  - ≤400 SF of gear (Limited Purpose Aquaculture leases, i.e., LPAs)



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AQUACULTURE PROGRAMMATIC GENERAL PERMIT (PGP) INITIATIVE

- USACE is working toward an aquaculture PGP, currently in conceptual phases
- All small-scale leases would be **automatically** authorized with ME DMR permit... given they comply with a set of general conditions
- These conditions would ensure compliance with RHA, ESA, MSA, NHPA, and CZMA.
- Coordinating with ME DMR, Maine HMs, USCG, USFWS, NOAA NMFS, MHPC, and the five federally recognized tribes of ME

CONCEPTUAL OUTLINE

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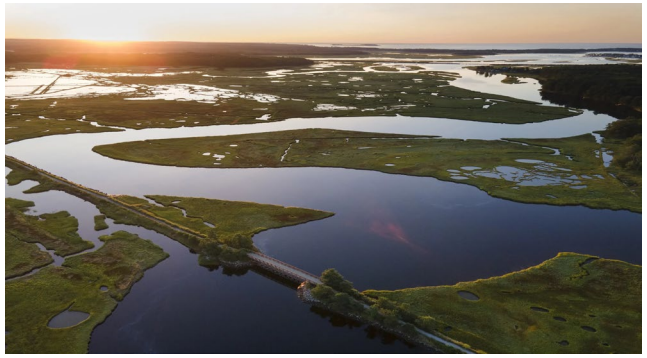
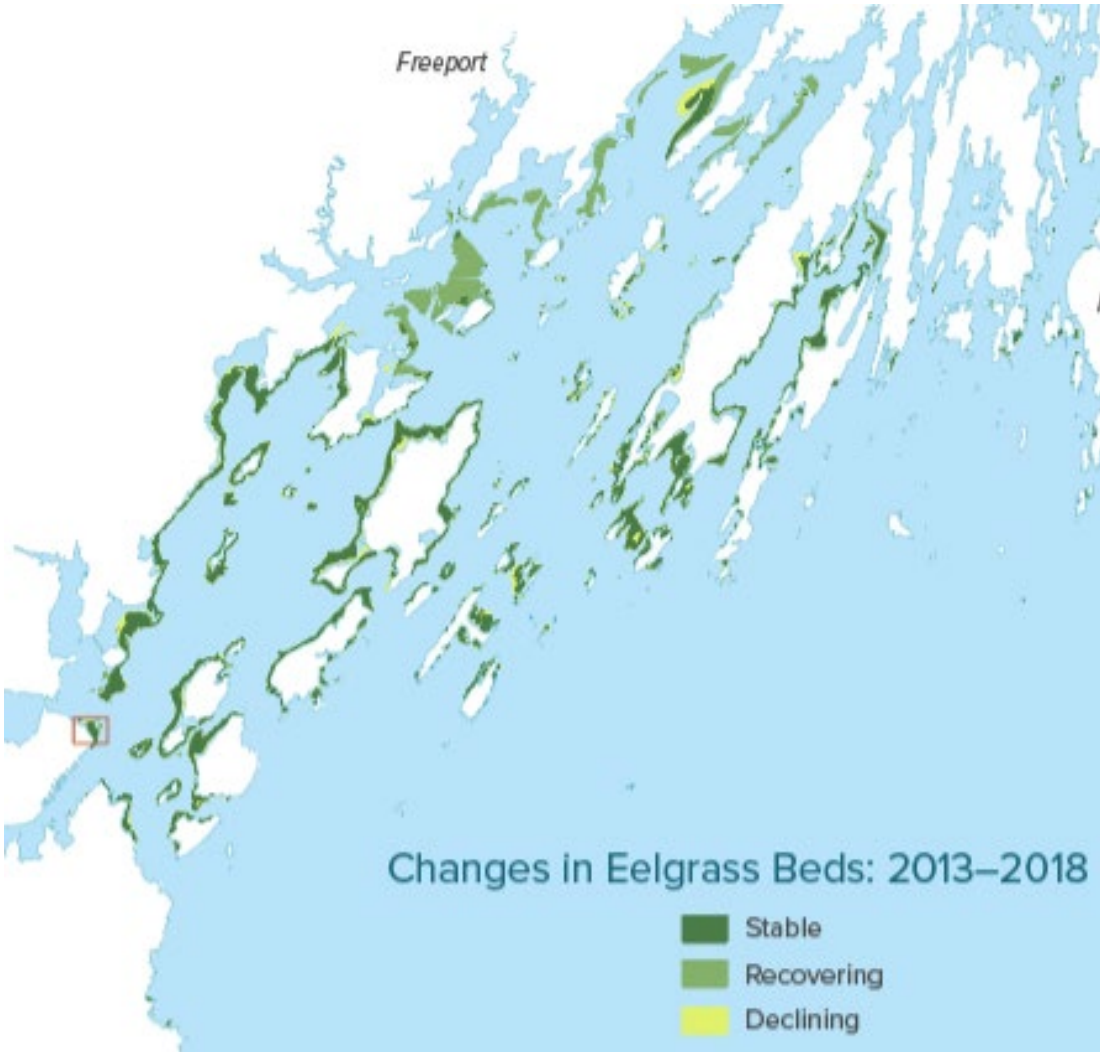
- General:
  - Only shellfish and marine algae, **no finfish**
  - Must mark all gear with contact information

- Magnuson–Stevens Fishery Conservation and Management Act:
  - No gear in/above eelgrass beds
  - No gear in salt marsh
  - When not in use, all gear must be stored on dry land
  - Seeking general concurrence from NOAA NMFS for PGP





CONCEPTUAL OUTLINE (CONT.)

- Endangered Species Act:
  - Keep things tidy and together:
    - No potential for marine debris or gear drift
    - All vertical lines must be kept taut
    - Frequent monitoring requirement
    - Helical anchors
  - No gear within critical habitat for whales
  - No gear within suitable habitat for Roseate Tern, Rufa Red Knot, or Piping Plover
  - Seeking programmatic Sect. 7 NLAA consultation

Roseate Tern

Rufa Red Knot

Leatherback Turtle

Atlantic Sturgeon

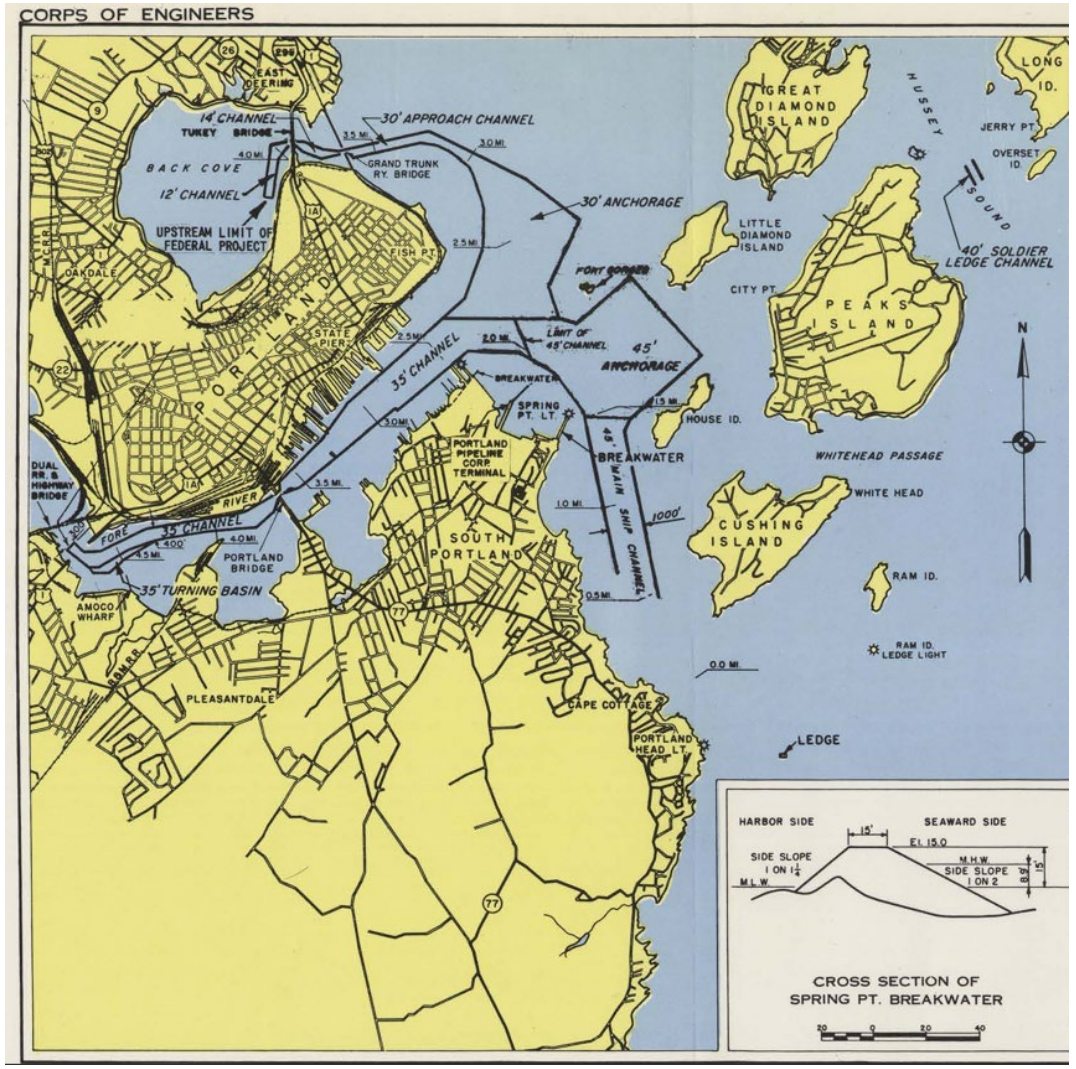
North Atlantic Right Whale

CONCEPTUAL OUTLINE (CONT.)

- Section 10 of Rivers and Harbors Act:
  - Seeking to develop navigation "signoff" process from Harbormaster and/or USCG
  - May be required to move gear at discretion of USACE or USCG
  - No gear within 3x the distance of the authorized depth of Federal Navigation Projects

- Seeking general consistency concurrence for CZMA
- Seeking general or programmatic "no adverse effect" for Sect 106 NHPA

- If the project **cannot** or **does not** meet the requirements laid out by the PGP, USACE must review the project using another permit process



REGULATORY DIVISION
COMPENSATORY MITIGATION

Taylor Bell, Mitigation Program Manager

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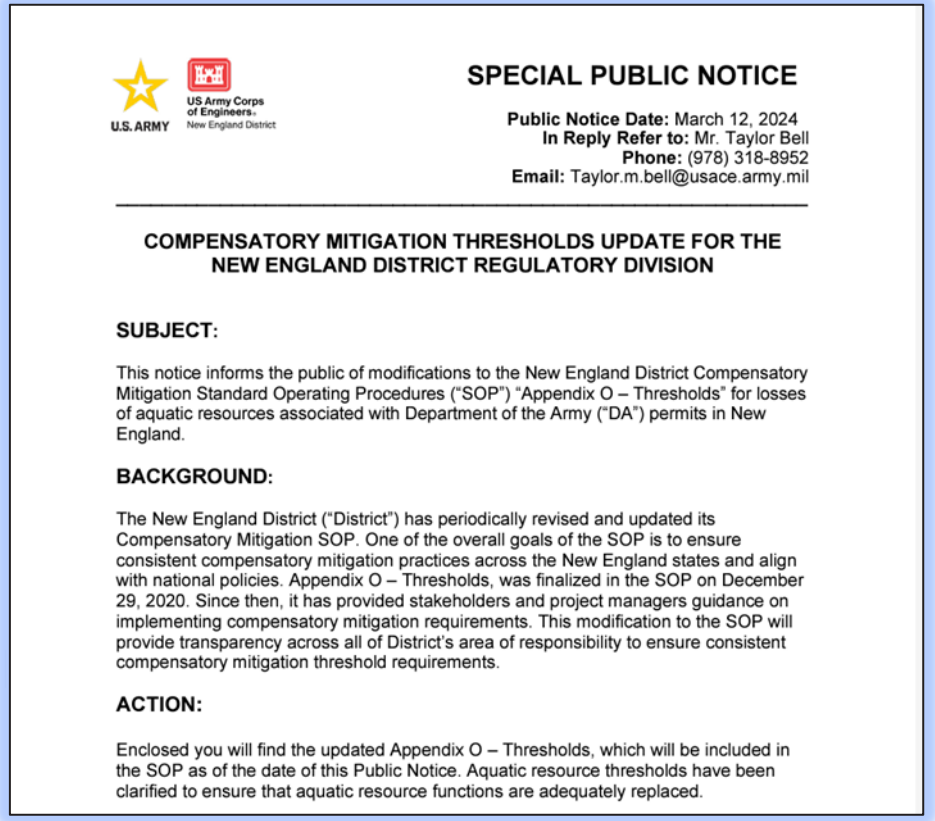
COMPENSATORY MITIGATION
STANDARD OPERATING PROCEDURES (SOP)

Compensatory Mitigation SOP public notice published on March 12, 2024.

Overall changes:

- Defined “Adverse Impact”
- If compensatory mitigation is required for one impact, all other jurisdictional impacts require mitigation
- If a net increase in aquatic resource functions or services compensatory mitigation required.



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US Army Corps of Engineers
New England District

SPECIAL PUBLIC NOTICE

Public Notice Date: March 12, 2024
In Reply Refer to: Mr. Taylor Bell
Phone: (978) 318-8952
Email: Taylor.m.bell@usace.army.mil

COMPENSATORY MITIGATION THRESHOLDS UPDATE FOR THE NEW ENGLAND DISTRICT REGULATORY DIVISION

SUBJECT:

This notice informs the public of modifications to the New England District Compensatory Mitigation Standard Operating Procedures (“SOP”) “Appendix O – Thresholds” for losses of aquatic resources associated with Department of the Army (“DA”) permits in New England.

BACKGROUND:

The New England District (“District”) has periodically revised and updated its Compensatory Mitigation SOP. One of the overall goals of the SOP is to ensure consistent compensatory mitigation practices across the New England states and align with national policies. Appendix O – Thresholds, was finalized in the SOP on December 29, 2020. Since then, it has provided stakeholders and project managers guidance on implementing compensatory mitigation requirements. This modification to the SOP will provide transparency across all of District’s area of responsibility to ensure consistent compensatory mitigation threshold requirements.

ACTION:

Enclosed you will find the updated Appendix O – Thresholds, which will be included in the SOP as of the date of this Public Notice. Aquatic resource thresholds have been clarified to ensure that aquatic resource functions are adequately replaced.

COMPENSATORY MITIGATION
STANDARD OPERATING PROCEDURES (SOP)

Threshold updates:

- Permanent adverse impacts to non-tidal wetlands greater than 5,000 SF require compensatory mitigation
- Tidal submerged aquatic vegetation was 500 SF, now 25 SF

Resource[1]	Non-Tidal	Tidal
Stream[2]	200 Linear Feet	200 Linear Feet
Other Open Waters[3]	Project Dependent	Project Dependent
Wetland	5000 Square Feet	500 Square Feet
Vernal Pool[4]	All	N/A
SAV	Project Dependent	25 Square Feet
Mudflat	N/A	1000 Square Feet
Intertidal[5]	N/A	1000 Square Feet

Compensatory Mitigation

- Third Party Mitigation Opportunities
  - Maine Natural Resource Conservation Program
  - Single Client Mitigation Banking
  - Mitigation Banking
- Mitigation Summit
  - Permittee or Applicant Responsible Mitigation
  - Mitigation Project Guidance
  - Framework for a Successful Project
  - Mitigation Crediting
  - Stream Visual Assessment Protocol 2.0
- New England Wetland Functional Assessment Integration into Mitigation SOP
- Rapid Wetland Conditional Assessment


Musquash Pond Gravel Pit

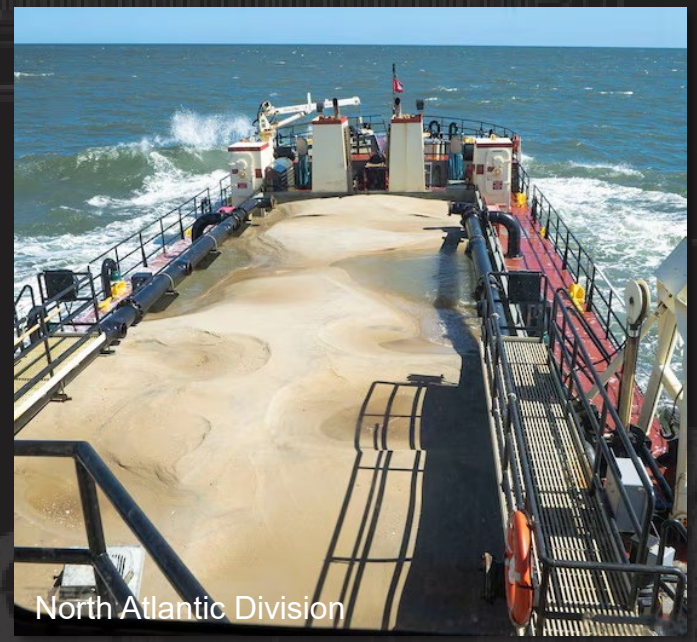
ERDC
ENGINEER RESEARCH & DEVELOPMENT CENTER

DREDGING EVALUATION

Heather Stukas,
Regulatory Project Manager, ME Section


New England District


Norfolk District


North Atlantic Division


Galveston District


Wilmington District

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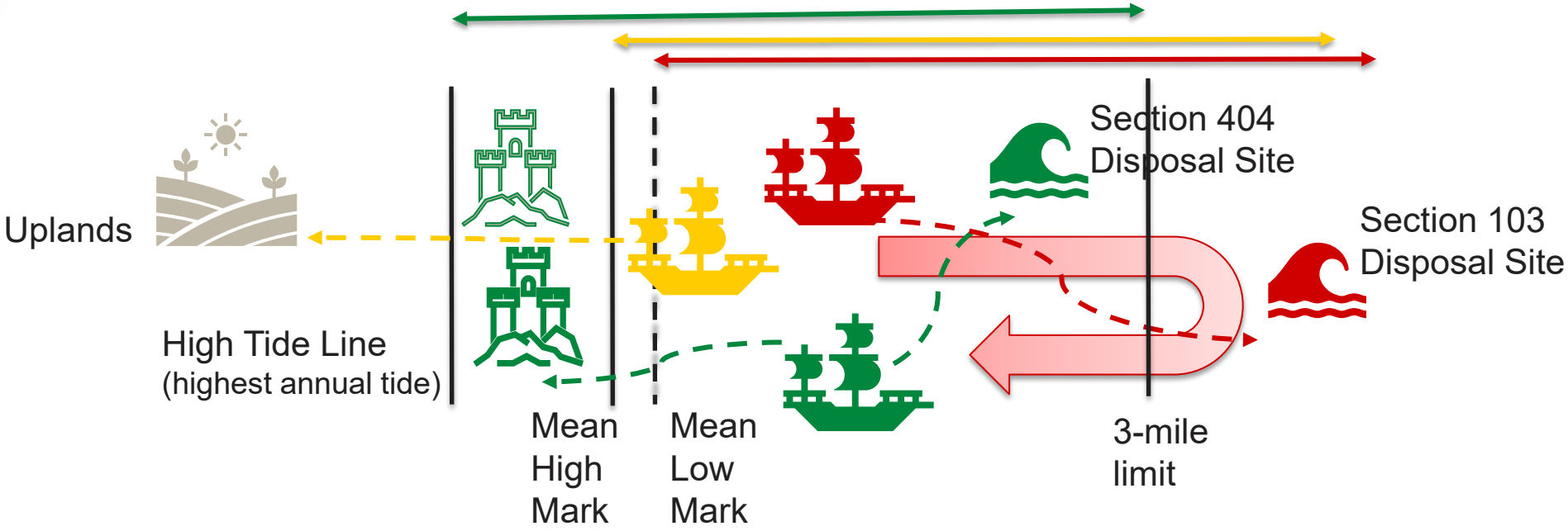
DREDGING AUTHORITIES



Section 404 of the Clean Water Act (CWA)

Authorizes the USACE to issue permits for the **discharge of dredged** or fill material into all waters of the United States, including wetlands.

Section 10 of the Rivers and Harbor Act (RHA)

Authorizes the USACE to issue permits for **work and structures in, over, or under** navigable waters.

Section 103 of the Marine Protection Research and Sanctuaries Act (MPRSA)

Authorizes the USACE to issue permits for the **transportation** of dredged material for the purpose of disposal within ocean waters.

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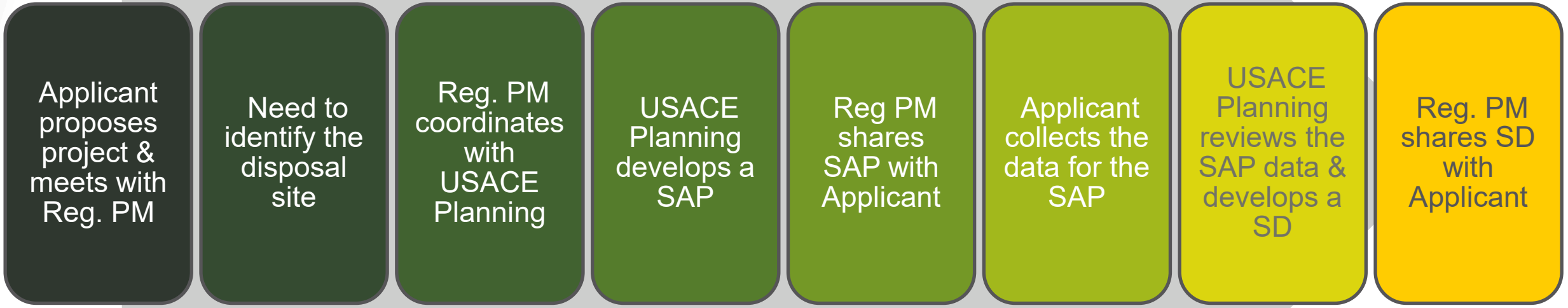
DREDGING - PERMITTING REQUIREMENTS

	Sec. 10 Only	Sec. 10 & Sec. 404	Sec. 10 & Sec. 103
Disposal Sites			
Uplands	★		
404 Disposal Site		★	
103 Disposal Site			★ [33 CFR 324.4(c)]
Permit Types			
General Permits	★	★	
Individual Permits	★	★	★ [33 CFR 324.4(a)]
Expiration Date			
5 – 10 yrs.	★	★	
3 yrs.			★ [33 CFR 235.6 (c)]
Approved Sampling and Analysis Plan & Suitability Determination		★	★
Alternative Analysis		**404(b)(1) Guidelines** [40 CFR 230]	**40 CFR 227 - Subpart C - Need for Ocean Dumping** [33 CFR 324.4(b)]

EVALUATING SEDIMENT

- Disposal below the High Tide Line
- **Dredging project regardless of volume or disposal site**
- Needed for a complete application
- **Can take a year to complete**



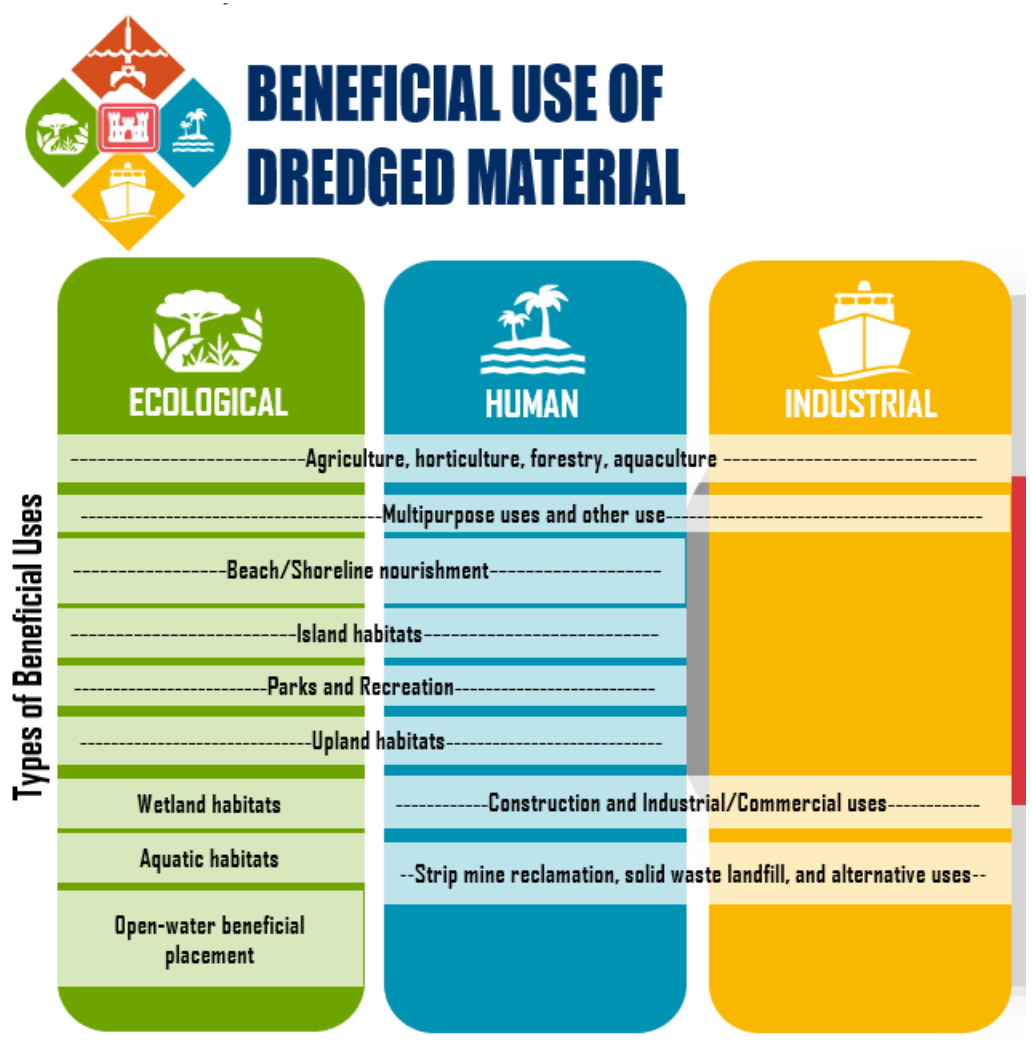
Sampling & Analysis Plan (SAP)
Suitability Determination (SD)

40 CFR 227 - SUBPART C - NEED FOR OCEAN DUMPING

40 CFR 227.15(c) **The relative environmental risks, impact and cost for ocean dumping as opposed to other feasible alternatives including but not limited to:**

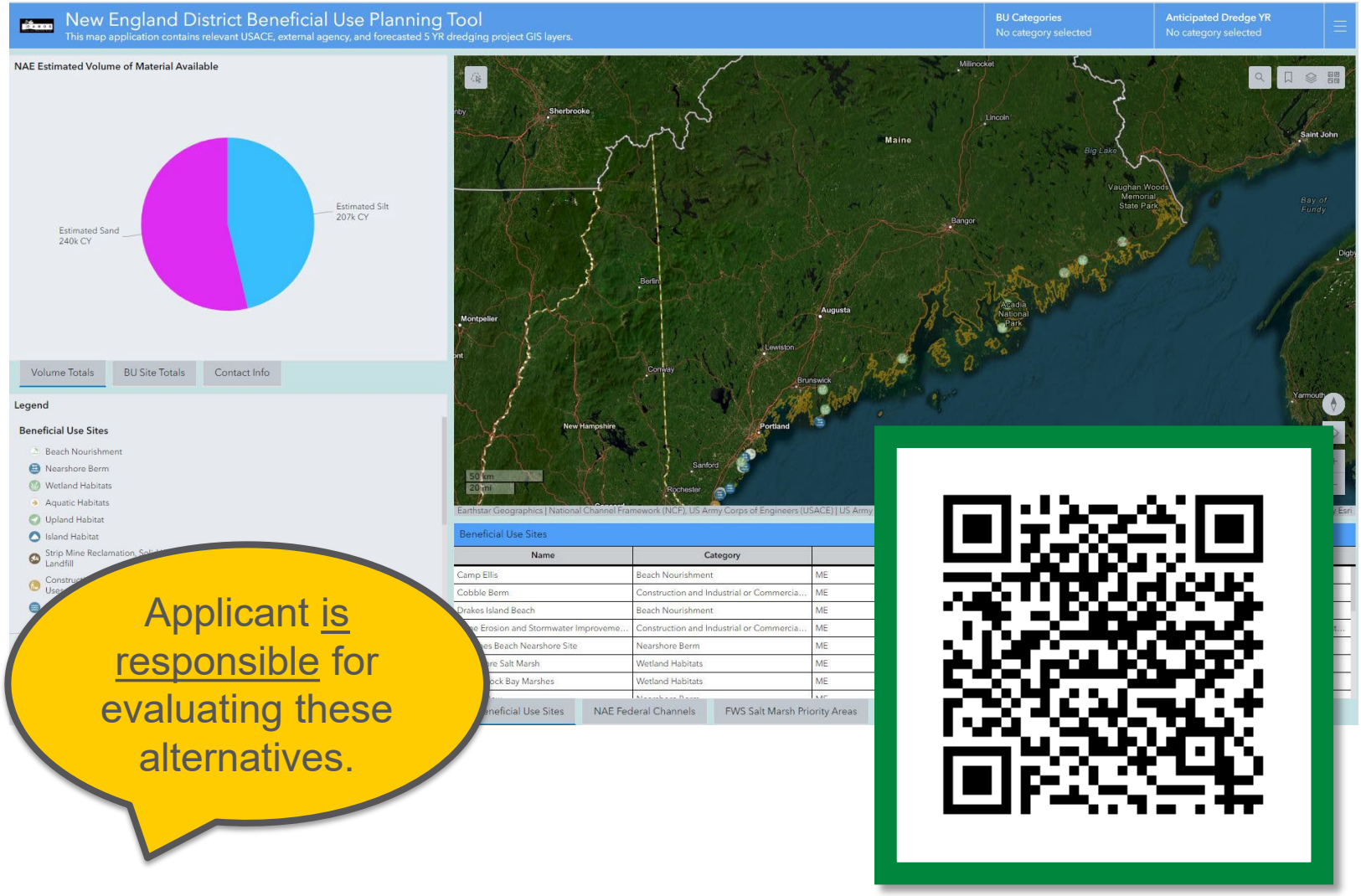
(1) Land fill
(2) Well injection
(3) Incineration
(4) Spread of material over open ground
(5) **Recycling of material for reuse**
(6) Additional biological, chemical, or physical treatment of intermediate or final waste streams;
(7) Storage
(8) **Other -** other dredge disposal sites, including the preferred alternative

Applicant is responsible for evaluating these alternatives.



NEW ENGLAND DISTRICT BENEFICIAL USE OF PLANNING TOOL

- New England District Beneficial Use Planning tool found at https://www.arcgis.com/apps/dashboards/4f1c828081684605af2972cb6297dacf
- Purpose of the tool is to **identify beneficial use opportunities** for dredge material in New England
- The tool is an **interactive map** to allow project proponents and stakeholders **to match projects in need of sediment with** projects generating **dredge material**.



USACE & USFWS STREAM CROSSING ATLANTIC SALMON PROGRAMMATIC CONSULTATION

Heather Stukas, Regulatory Project Manager, ME Section

Bean Brook, Avon

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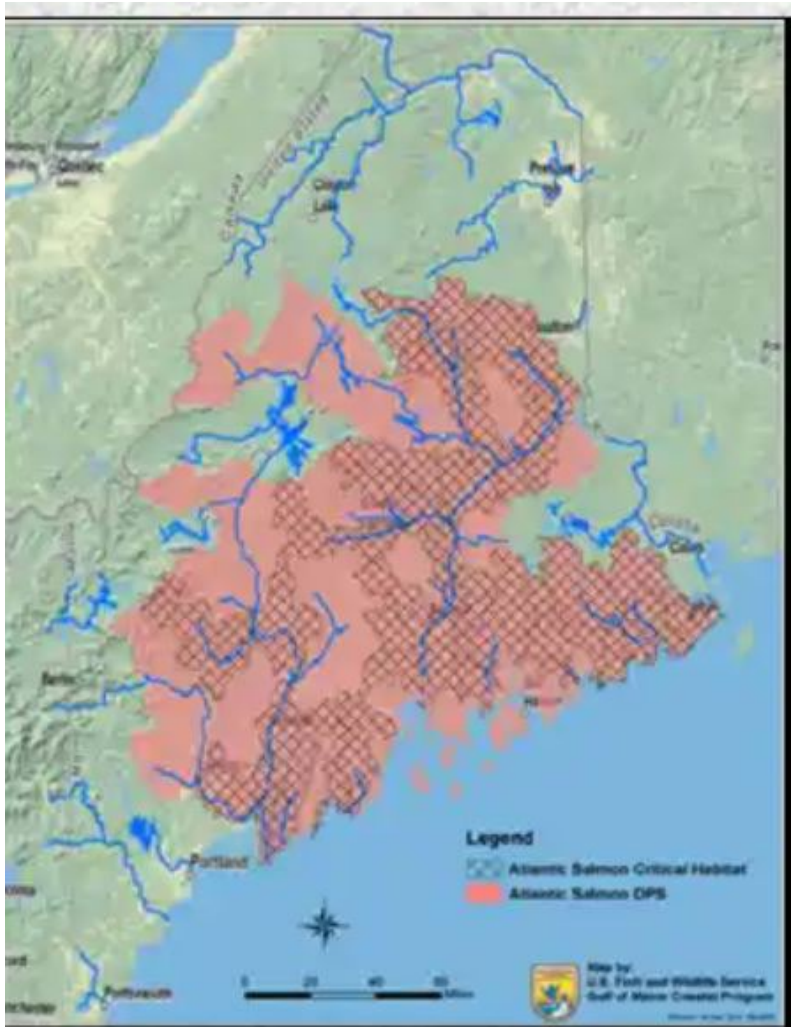
HIGHLIGHTS

- **Streamline process** to complete **Section 7 consultations** under the Endangered Species Act (ESA) for **Atlantic salmon and/or its designated critical habitat** and to promote recovery of Atlantic salmon
  - Covers Canada lynx when applicable
- Can be either **informal** Section 7 or **formal** Section 7 consultation
- **Very prescriptive** and project must meet design criteria
- Designs **must be** based on the **US Forest Service Stream Simulation methodology**
  - Has been used for 90 – 95% of stream crossings **within designated critical habitat** for Atlantic salmon

Under ESA an effect is an effect (positive and/ or negative) and requires Section 7 consultations



TIPS FOR SUCCESS

- Carefully read the instructions of the Stream Crossing Programmatic Notification Form
- Please make sure your project can meet the instream work window of **July 15th to September 30th** of any given year
- Provide a complete submission package:
  - Provide **all design materials** outlined in the Project Notification Form
  - Provide justification if using a different Hydrologic and/or Hydraulic model than identified on the Project Notification Form
  - Provide details on **Atlantic salmon and/or its designated critical habitat** in the Habitat Use Description portion of the forms
  - Provide Designer Qualification details specific to **Stream Simulation Design trainings and experience**
- Design to the **100-year** flow event


Photo: Maine DMR

GOOD EXAMPLE OF COMPLETE SUBMISSION

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Design Materials Submitted:
- ☑ Title Sheet
- ☑ Project Location Map
- Site Photos: ☑ Inlet ☑ Outlet ☑ Upstream ☑ Downstream
- Design Plans:
  - Plan Views: Topographic Site Maps: ☑ Existing Conditions ☑ Proposed Conditions
    - ☑ Bed & Bank Plan ☑ Water & Sediment Control Plan
  - Cross-Section Views: ☑ Reference Reach (with photos)
    - ☑ Proposed Structure Elevation (inlet or outlet)
  - Profile Views: ☑ Stream Profile ☑ Structure Profile
  - Hydrologic & Hydraulic Analysis: ☑ Table of Peak Discharges (1, 2, 5, 10, 25, 50 & 100 Year)
    - ☑ Peak Discharge Headwater Elevation Graphic ☑ Hydraulic Data by Discharge
    - Hydrologic Model: ☑ StreamStats ☐ Other:
    - Hydraulic Model: ☑ HY-8 ☐ HEC-RAS ☐ Other:
  - Bed Mobility & Stability Analysis: ☑ Reference Substrate Distribution (D95, D84, D50, D16)
    - ☑ Key Pieces & Bedforms (if applicable)

☑ Title Sheet

PROJECT DRAWINGS

for

[redacted]

CROSSING IDENTIFICATION

BRIDGE PERSPECTIVE

[redacted]

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GOOD EXAMPLE OF COMPLETE SUBMISSION

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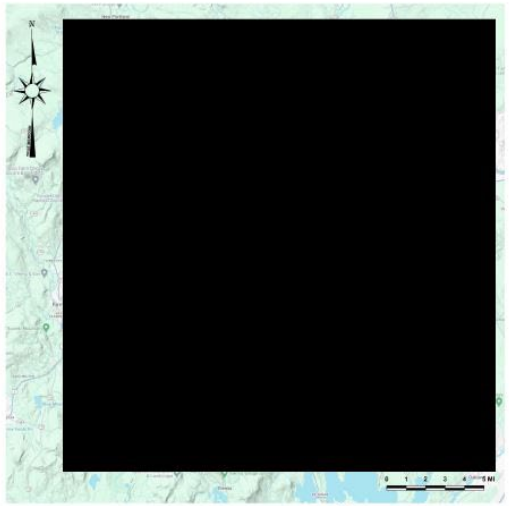

☑ Project Location Map

Site Photos: ☑ Inlet ☑ Outlet ☑ Upstream ☑ Downstream

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GOOD EXAMPLE OF COMPLETE SUBMISSION

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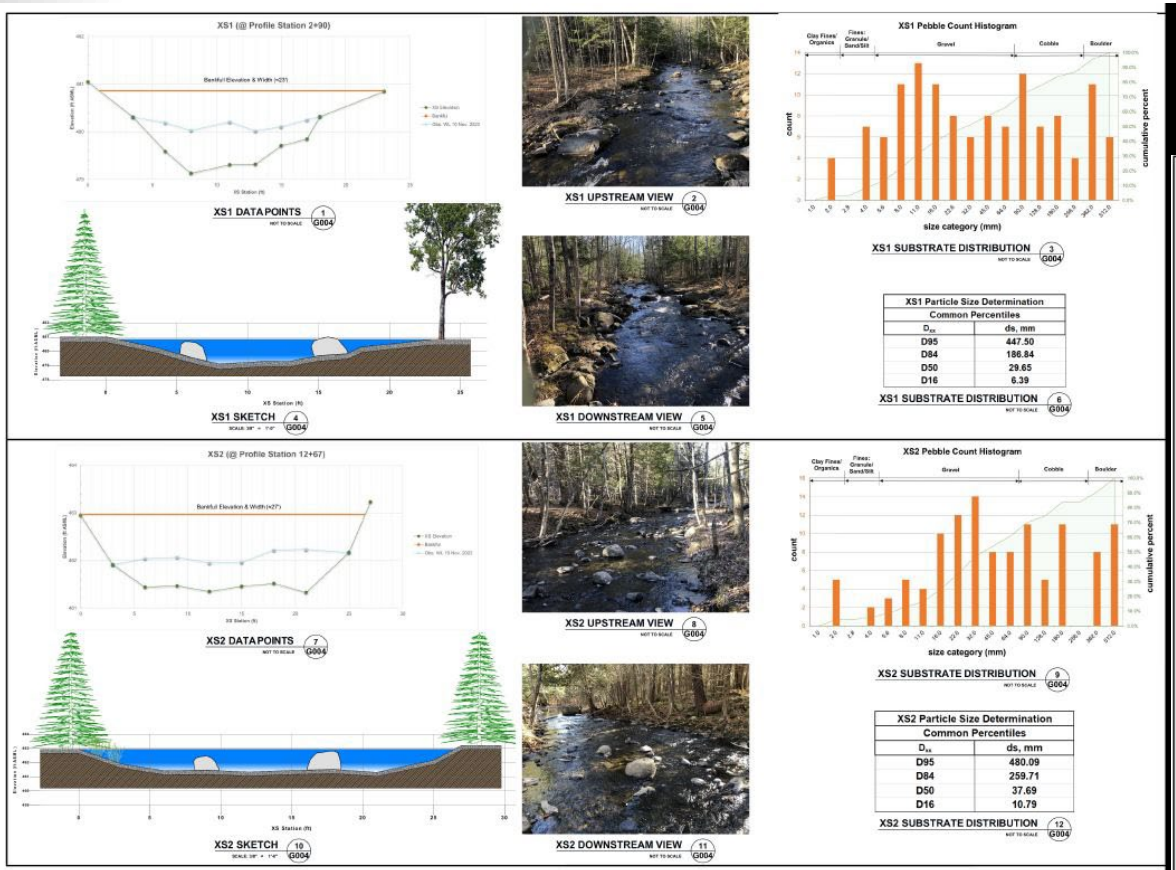
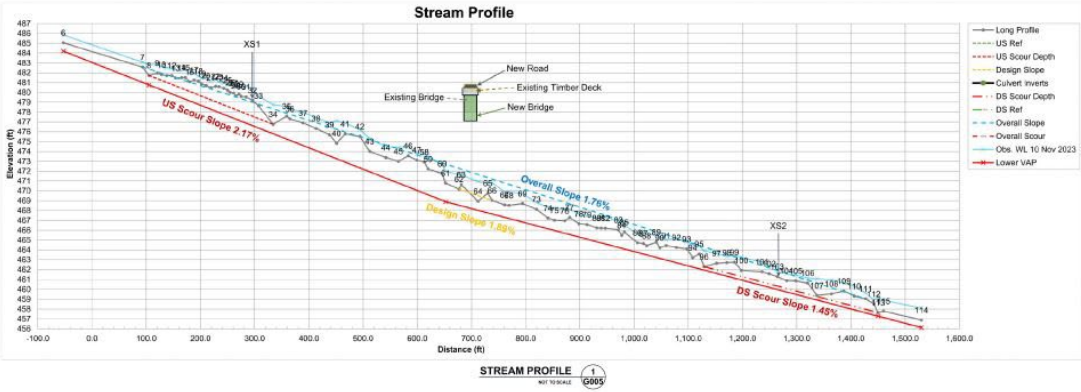
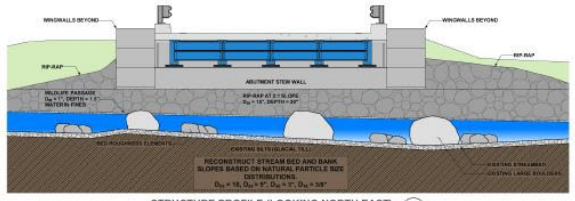


Cross-Section Views: ☑ Reference Reach (with photos)

Bed Mobility & Stability Analysis: ☑ Reference Substrate Distribution (D95, D84, D50, D16)

Profile Views: ☑ Stream Profile ☑ Structure Profile





GOOD EXAMPLE OF COMPLETE SUBMISSION

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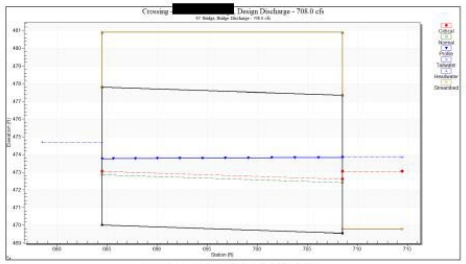
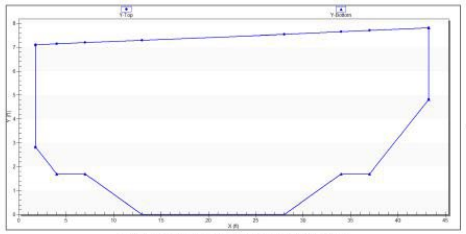


DESIGN DISCHARGE GRAPHIC

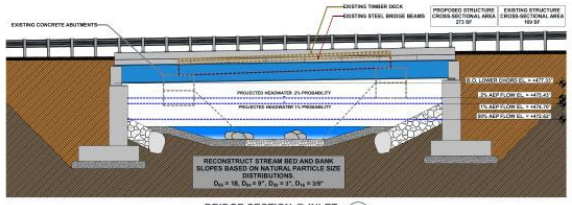


HYDRAULIC SHAPE MODEL (@ INLET)

Crossing: [redacted]

Summary Table - 45' Bridge

HYDRAULIC OUTPUT TABLE



BRIDGE SECTION @ INLET

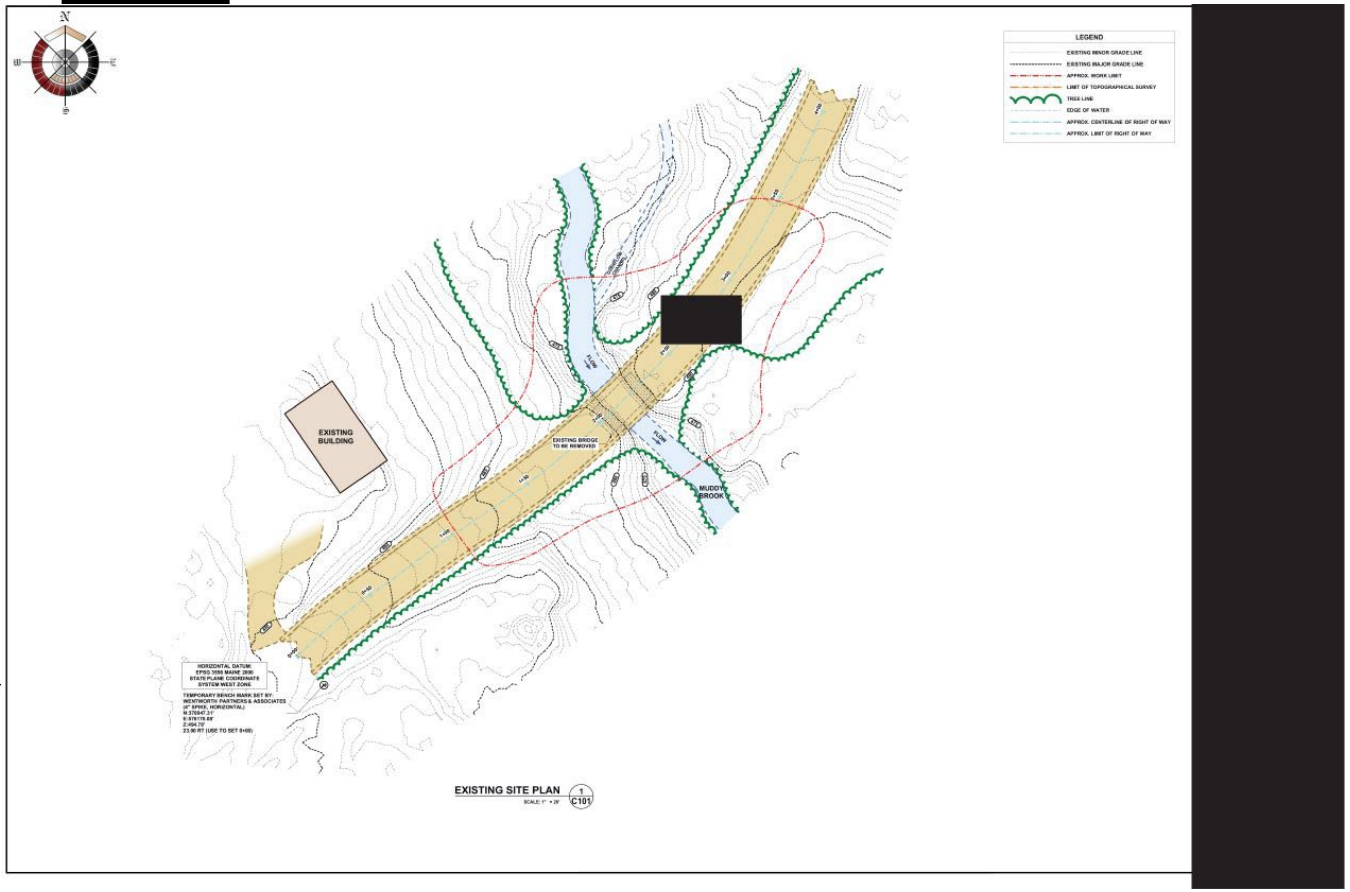
Hydrologic & Hydraulic Analysis: ☑ Table of Peak Discharges (1, 2, 5, 10, 25, 50 & 100 Year)

☑ Peak Discharge Headwater Elevation Graphic ☑ Hydraulic Data by Discharge

Hydrologic Model: ☑ StreamStats ☐ Other:

Hydraulic Model: ☑ HY-8 ☐ HEC-RAS ☐ Other:

☑ Existing Conditions



EXISTING SITE PLAN

GOOD EXAMPLE OF COMPLETE SUBMISSION

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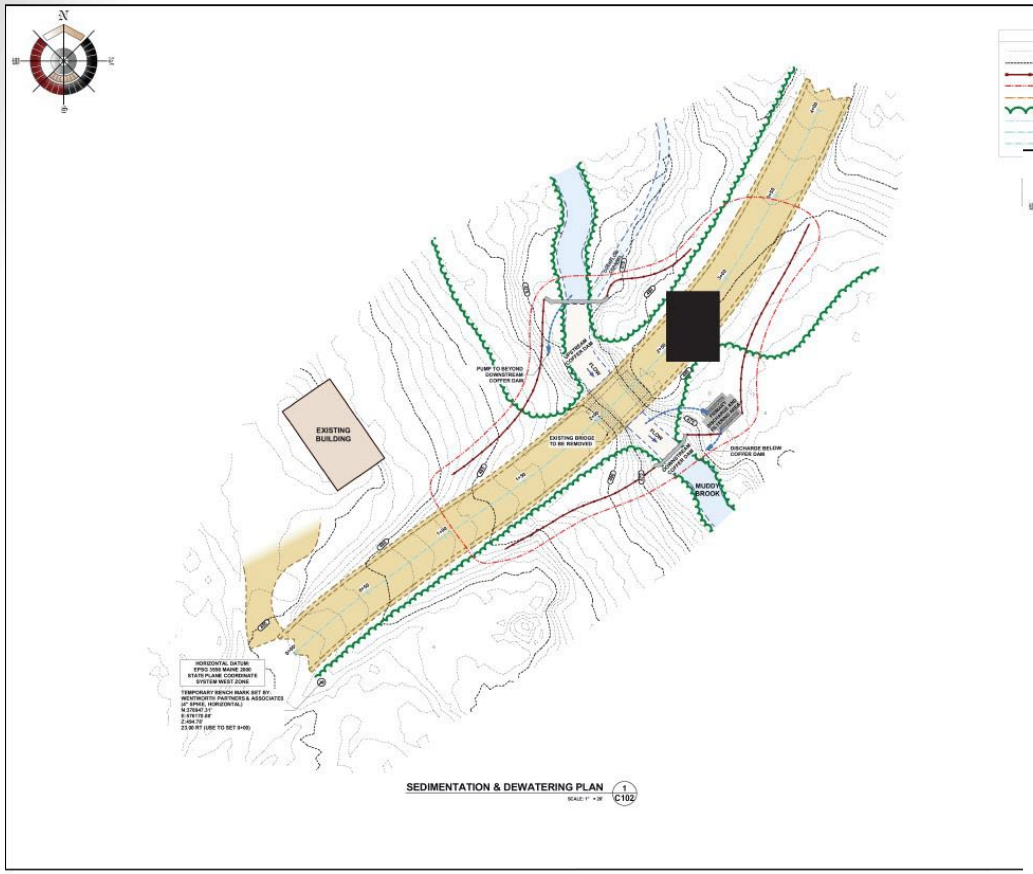
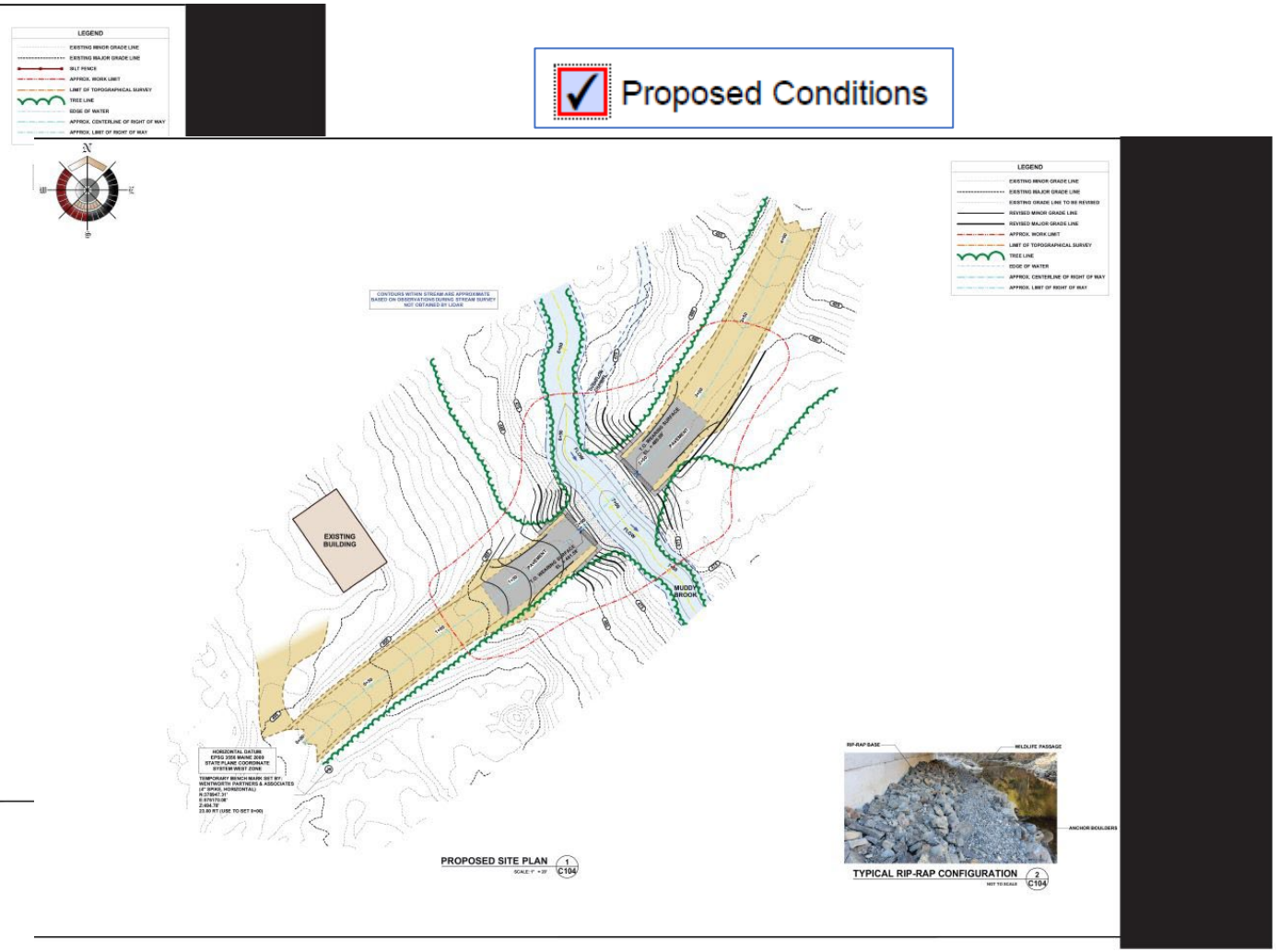


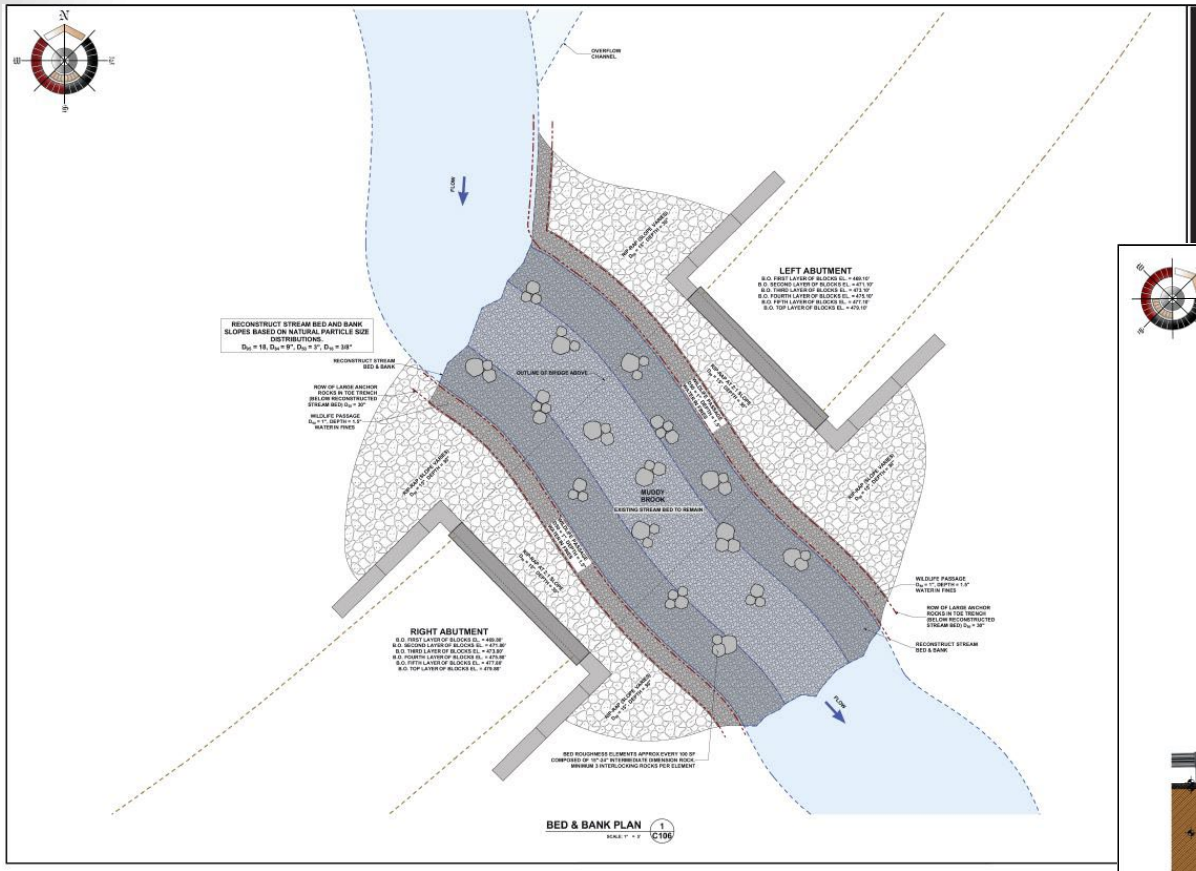
Water & Sediment Control Plan

Proposed Conditions



GOOD EXAMPLE OF COMPLETE SUBMISSION

U.S. ARMY



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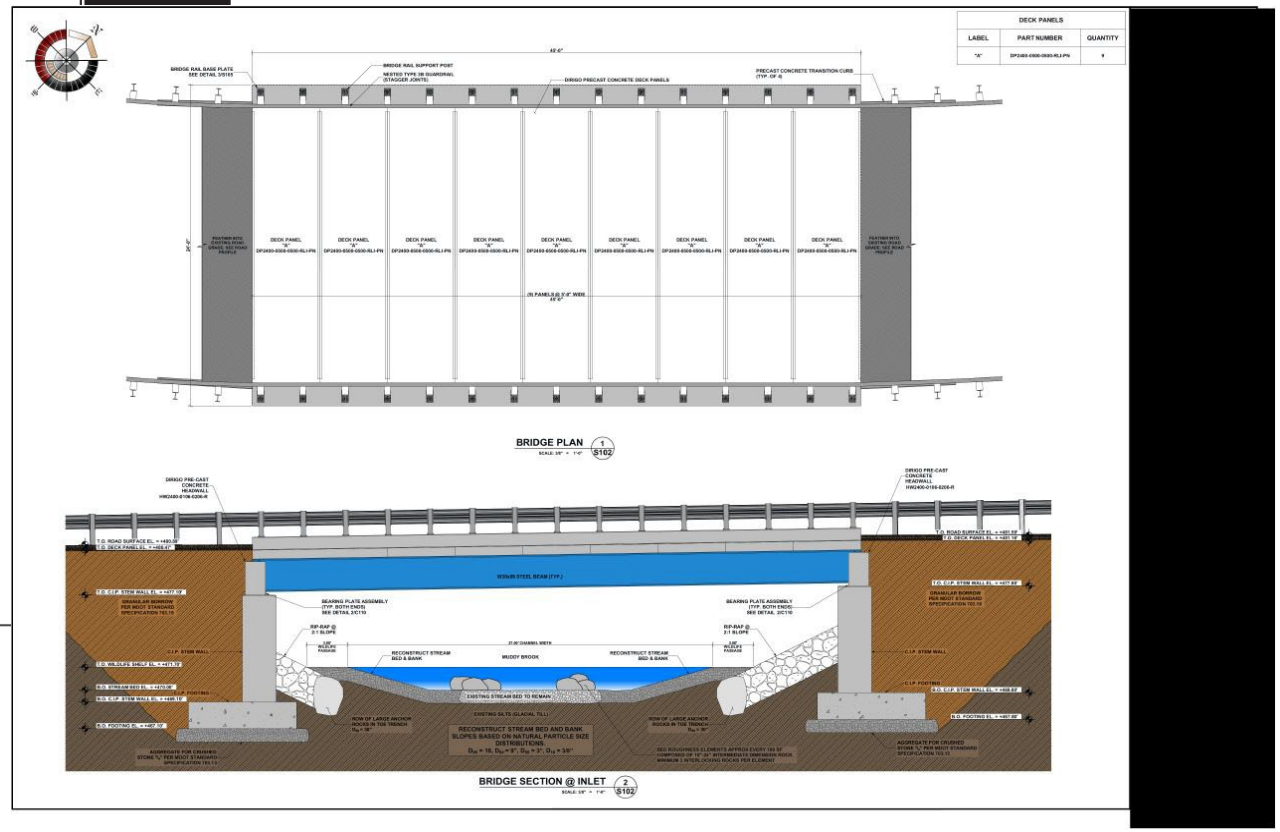
Cross-Section Views:
- ☐ Reference Reach (with photos)
- ☑ Proposed Structure Elevation (inlet or outlet)



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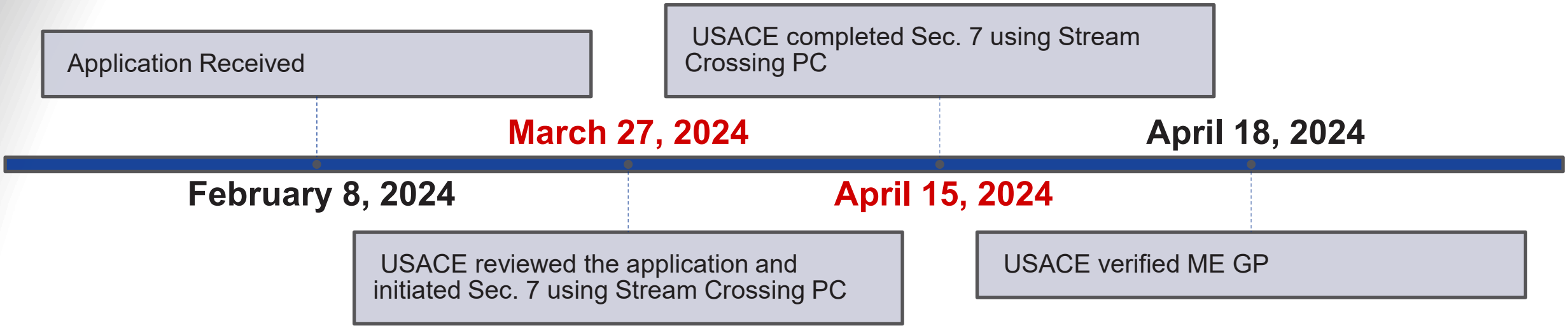
☑ Bed & Bank Plan

STREAMLINED PROCESS



Why this project was successful:

- The stream crossing programmatic consultation package was accepted on the **first submission**
- **It was a complete package**
- The stream crossing was approved by the Design Review Team at USFWS on its **first submission**
- **Submitted the project during the off season**, so Design Review Team members were less busy

Factors to consider:

- **Timing** of submission
- Site conditions (i.e. does the site allow for a design to be eligible under the Stream Crossing Programmatic Consultation (PC))
- Does the package **have all the required information** to be deemed complete
- Does the **design meet** the Stream Crossing PC (e.g. size specifications, TOY, 100-year flow event, etc.)

USFWS INFORMATION FOR PLANNING AND CONSULTATION (IPAC) – DETERMINATION KEYS

Heather Stukas, Regulatory Project Manager, ME Section

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US Army Corps of Engineers®
New England District

FEDERAL NEXUS & ESA SECTION 7 CONSULTATION

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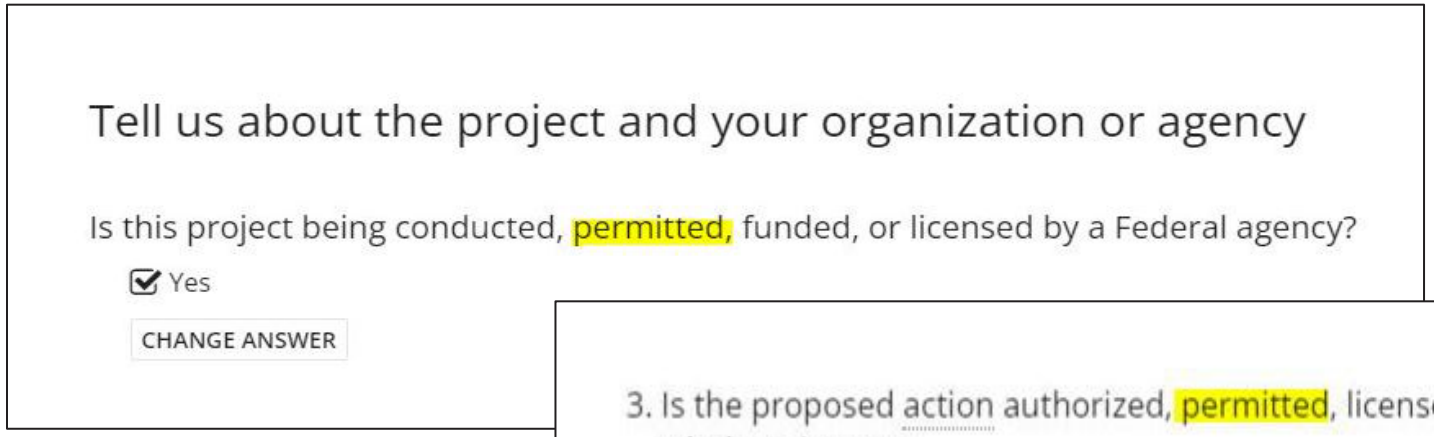
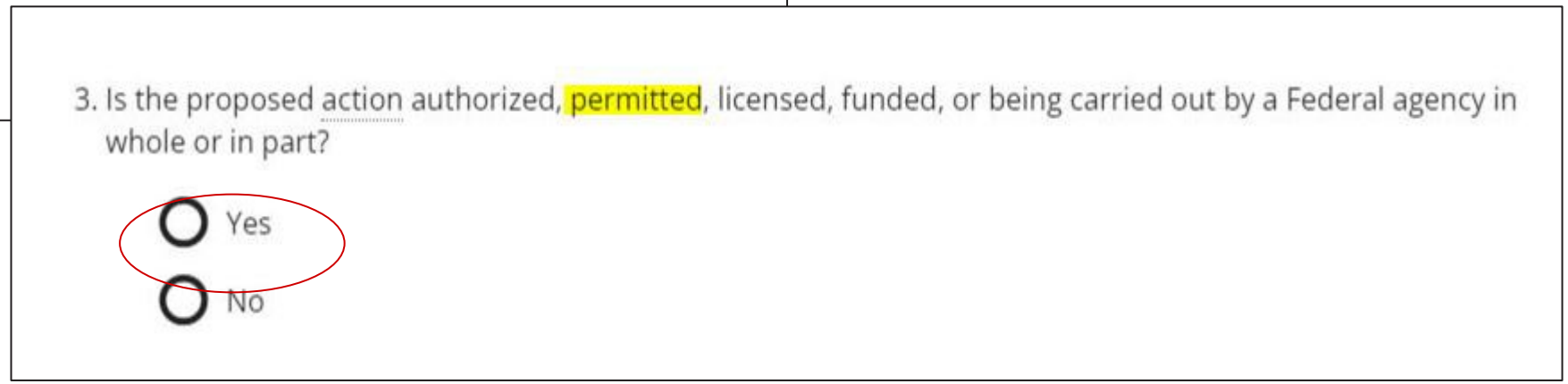
- Does my project need or have a Federal Nexus (e.g. USACE authorization, federal funds, etc.)?
- IPaC Determination Keys facilitate a streamlined process to conduct Section 7 consultations under the Endangered Species Act (ESA) for many species here in Maine and New England



Federal Action Agency makes the ESA Effect Determination.



WE NEED YOUR HELP – PLEASE PRESCREEN YOUR PROJECT

5. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

- ○ Yes
- ○ No

6. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

- ○ Yes
- ○ No

Please select Yes.

FEDERAL ACTION AGENCY MAKES THE ESA EFFECT DETERMINATION

8. Have you determined that your proposed action will have no effect on the [Listed Species]?
Remember to consider the effects of any activities that would not occur but for the proposed action.

2. The proposed action does not intersect an area where the northern long-eared bat is likely to occur, based on the information available to U.S. Fish and Wildlife Service as of the most recent update of this key. If you have data that indicates that northern long-eared bats are likely to be present in the action area, answer "NO" and continue through the key.

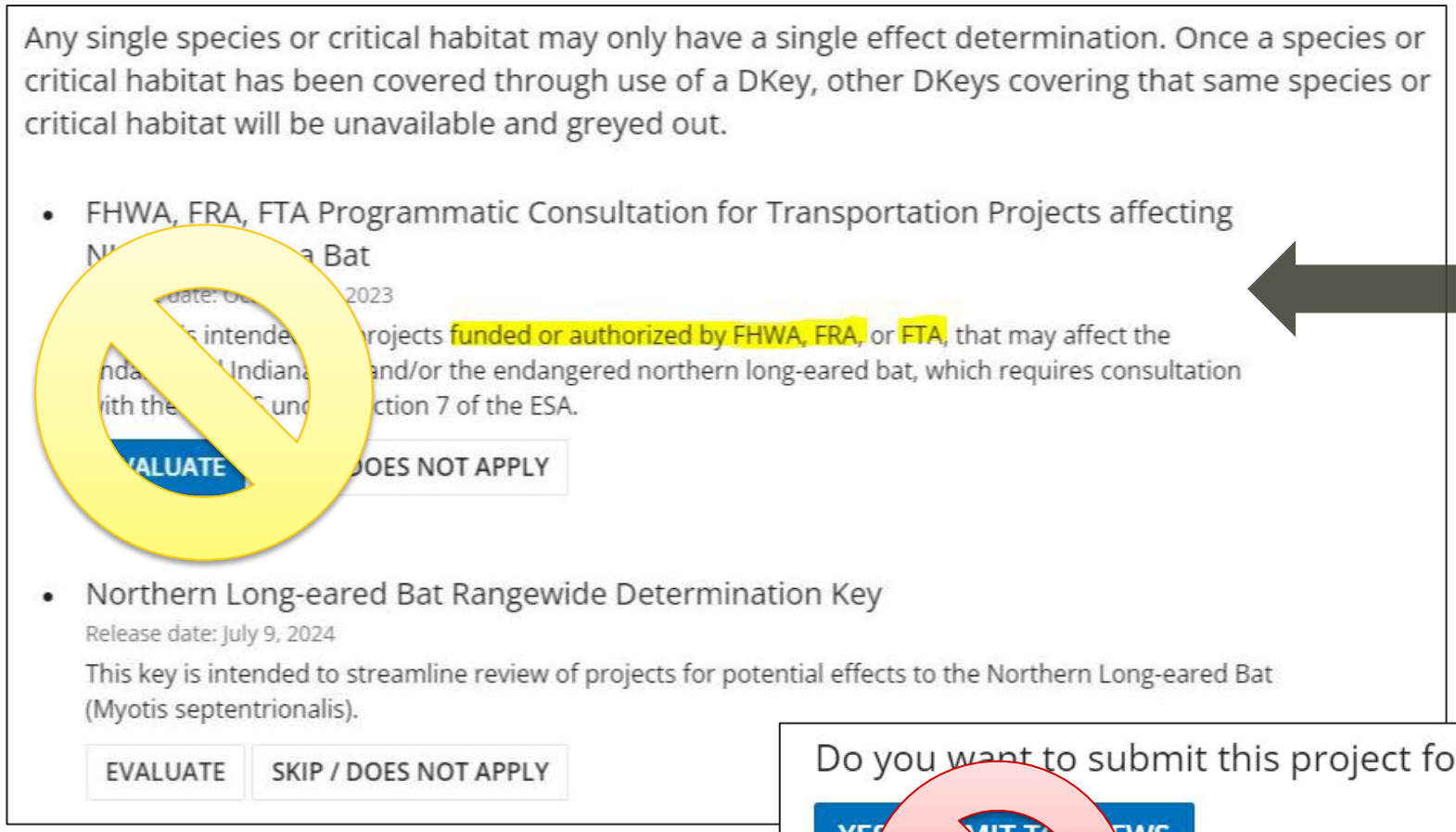
Do you want to make a no effect determination?

- ○ Yes
- ○ No

Do not select yes here, unless you are a Federal Agency or are duly designated

Can I provide additional details to help support a no effect determination?

FHWA, FRA, FTA D-KEY



This D-Key is only for the following Federal Agencies:

- **Federal Highway Administration (FHWA)**
- **Federal Railroad Administration (FRA)**
- **Federal Transit Administration (FTA)**

Stop & Pause – let USACE PM review the information 1st

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D-KEYS OUTCOMES

How did I get this determination?

You have reached a preliminary determination of no effect for species covered by this determination key.

Did I get this determination because of time of year restriction, etc.?

You have reached a preliminary determination of may affect - not likely to adversely affect for species covered by this determination key.

SAVE AND CONTINUE Next you can see if you qualify for any other determination keys.

You have reached a preliminary determination of may affect for species covered by this determination key.

SAVE AND CONTINUE Next you can see if you qualify for any other determination keys.

Ok. This project will need an individual Section 7 consultation completed by the USACE.

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QUESTIONS?
PLEASE FILL OUT THE BELOW SURVEY

https://forms.osi.apps.mil/r/R0pB5M8Fku?origin=lprLink