



PUBLIC NOTICE

Comment Period Begins: December 17, 2024

Comment Period Ends: January 17, 2025

File Number: NAE-2005-00280

In Reply Refer to: Heather S. Stukas, Regulatory Division

Phone: (978) 318-8678

Email: heather.s.stukas@usace.army.mil

The District Engineer, U.S. Army Corps of Engineers, New England District (USACE), has received a permit application, file number NAE-2005-00280, to conduct work in waters of the United States from Kennebunkport Marina c/o Shawn Dumas, KPT Marine, LLC. This work is proposed in Kennebunk River at 67 Ocean Ave in Kennebunkport, Maine

The work involves dredging of approximately 3,675 cubic yards of material from a 0.8-acre area of subtidal habitat to a depth of -6 feet below mean low low water in the Kennebunk River at 67 Ocean Ave in Kennebunkport, Maine. The dredged material will be transported to the approved disposal site, the Isle of Shoals North Disposal Site, located about 15 nautical miles offshore, where it will be disposed of. The transportation route begins at coordinates: 43.356009°N; -70.473803°W and ends at coordinates 43.019033°N, -70.449917°W.

The work is shown on the enclosed plans titled "Transportation Route, Kennebunkport Marina Dredging Project on one (1) sheet, undated, and "Kennebunkport Marina Dredging" on two (2) sheets and dated "October 23, 2024, and December 2023".

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.
- ☒ Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408)

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 USACE 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. The USACE will consider all comments received 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.

Dredged Material Disposal Mitigation Discussion:

The alternatives considered in the dredged material disposal analysis fall into four general categories: beneficial use, upland disposal, confined disposal, and open-water disposal. The feasibility of disposal alternatives was analyzed relative to the physical and chemical quality of the dredged material, the volume of material to be dredged, the availability of suitable disposal and beneficial use sites, and the cost of disposal. When applicable, the biological quality of the disposal of the material at the disposal site was also used to evaluate the feasibility of the open-water disposal alternative.

Based on the characteristics of the dredged material, the lack of suitable alternate disposal or beneficial use sites and costs, the most feasible, practical, cost-effective and environmentally acceptable alternative for the disposal of dredged materials from the proposed dredging is disposal at the requested disposal site.

Testing Information

The dredged material has undergone physical, chemical, and biological testing and has satisfied the criteria for ocean disposal of dredged material as specified in Part 227 of the Ocean Dumping Act regulations. It is our preliminary determination that the material is acceptable for disposal at this disposal site.

Isle of Shoals (IOSN)

Isle of Shoals North Disposal Site (IOSN) is located approximately 20 kilometers (km) (10.8 nautical miles [nmi]) east of Portsmouth, New Hampshire, in the Gulf of Maine. IOSN is circular in shape and approximately 2.5 km (1.3 nmi) in diameter. Current conditions at IOSN include water depths that range from approximately 90 meters (m) (295 feet [ft]) Mean Lower Low Water (MLLW) on the western boundary to 100 m (328 ft) in the eastern portion of the site. IOSN was designated as an Ocean Dredged Material Disposal Site (ODMDS) in September 2020 by the U.S. Environmental Protection Agency Region 1 (EPA Region 1) under Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA). The site is managed by EPA Region 1 and USACE NAE following the Site Management and Monitoring Plan (SMMP) (USACE/EPA 2020). The site began receiving material in November 2020 from the Rye Harbor dredging project (USACE 2022).

The activities proposed herein will also require permission from the USACE pursuant to 33 U.S.C. 408 if it will alter or temporarily or permanently occupy or use a USACE federally authorized Civil Works project known as Kennebunk River Federal Navigation Project. The proposed alteration involves mechanically dredge adjacent to and will require short-term occupancy with the Federal Navigation Project. The proposed alteration is located Kennebunkport Marina at 67 Ocean Ave in Kennebunkport, Maine. A permit pursuant to Section 10/404/103 shall not be granted until the Section 408 permission is issued. Through this public notice, we are soliciting information necessary to inform the USACE evaluation and review.

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). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

The dredging portion of this project will impact approximately 36,925 square feet of EFH. Habitat at this site can be described as silt. Loss of this habitat may adversely affect species that use these waters and substrate. 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 (Isle of Shoals North Disposal Site (IOSN)). This is an open water site, which provides EFH. Habitat at this site can be described as predominately soft, fine-grained silts and clays. Loss of this habitat may adversely affect species that use these waters and substrate. 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.

NATIONAL HISTORIC PRESERVATION ACT

Based on our initial review of the proposed project and coordination with the State Historic Preservation Officer and Tribal Historic Preservation Officer(s), no historic properties were identified within the permit area and the area of potential effects. 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.

ENDANGERED SPECIES CONSULTATION

The USACE has reviewed the application for the potential impact on federally-listed threatened or endangered species and their designated critical habitat pursuant to section 7 of the Endangered Species Act (ESA) as amended. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect a listed species or their critical habitat. We are coordinating with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service on listed species under their jurisdiction and the ESA consultation will be concluded prior to the final decision.

OTHER GOVERNMENT AUTHORIZATIONS

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:

- (X) Permit, license or assent from State.
- () Permit from local wetland agency or conservation commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

COMMENTS

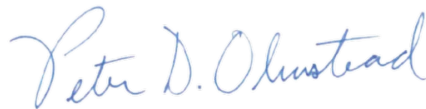
The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine 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. People submitting comments are advised that all comments received will be available for public review in their entirety and will be considered a matter of public record.

Comments should be submitted in writing by the above date. If you have any questions, please contact Heather S. Stukas, Regulatory Division, at heather.s.stukas@usace.army.mil, (978) 318-8678, (800) 343-4789 or (800) 362-4367.

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 USACE 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.

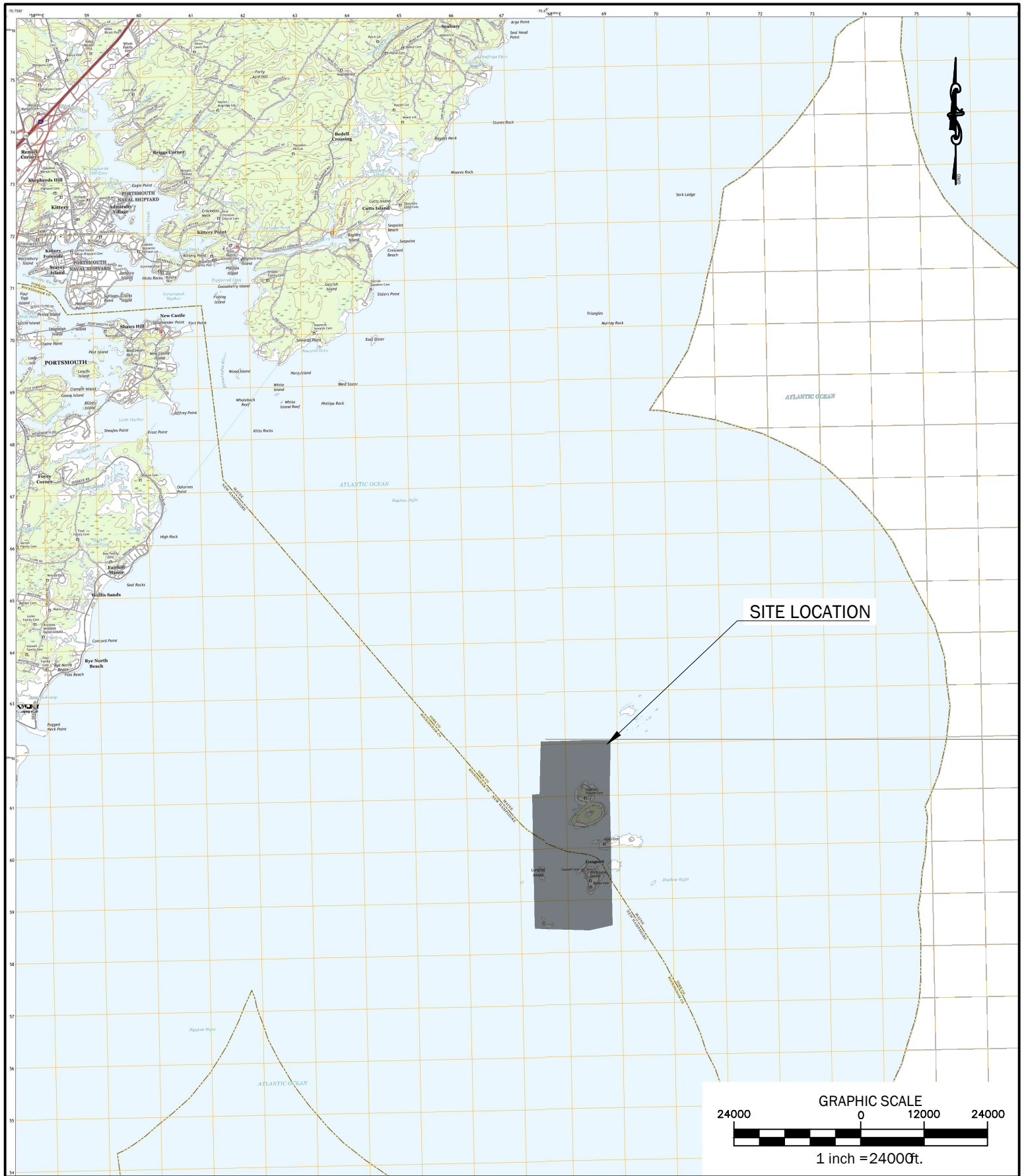
The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Peter D. Olmstead
Chief, Maine Section
Regulatory Division

Please contact Ms. Tina Chaisson at bettina.m.chaisson@usace.army.mil or (978) 318-8058 if you would like to be removed from our public notice mailing list.



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Arundel Yacht Club Dredging

Arundel Yacht Club
51 Ocean Avenue
Kennebunkport, Maine 04046

Sheet Title:

Dredge Disposal Site Location

Job No.: 782

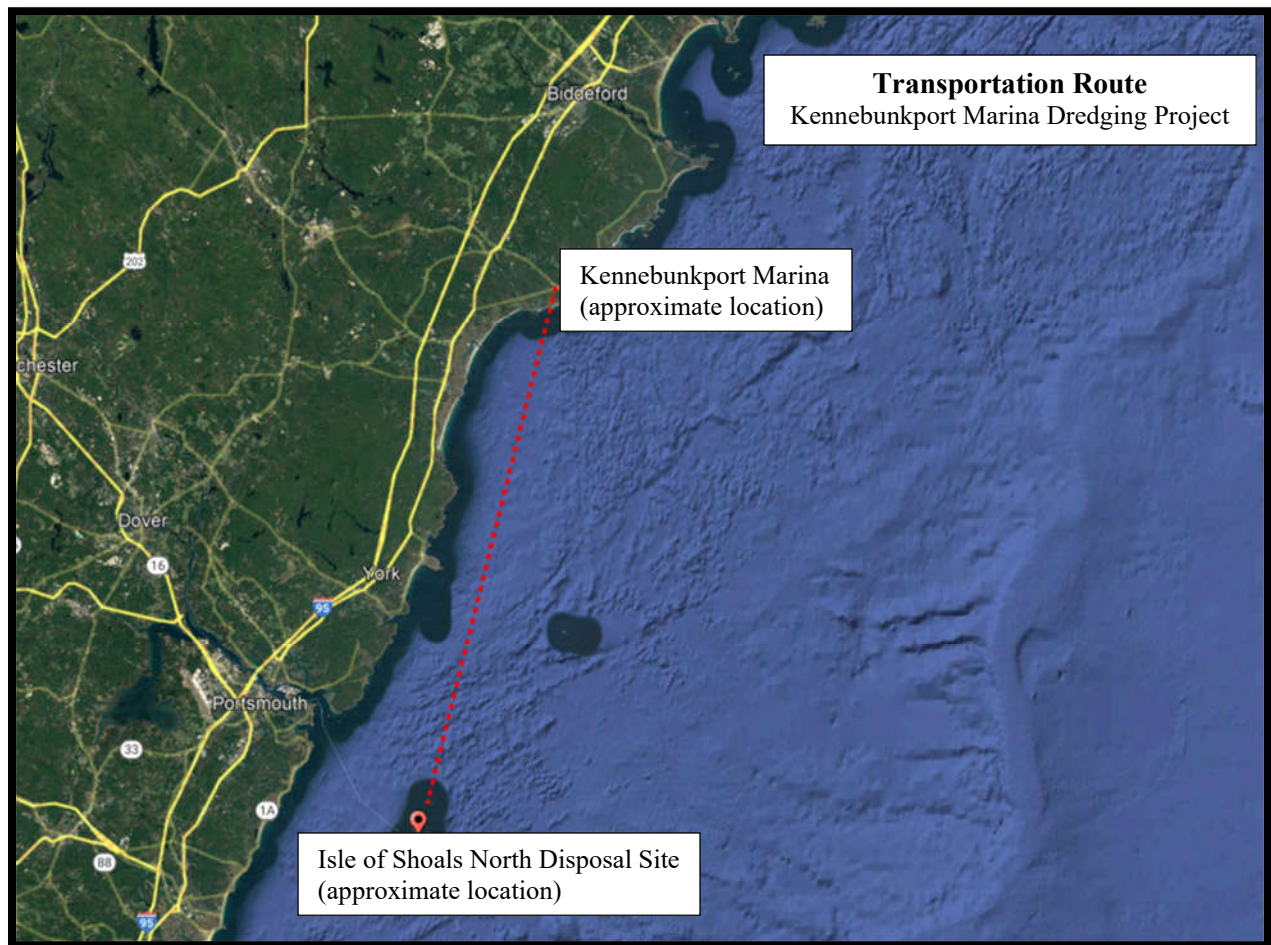
Date: January 2022

Scale: 1" = 24,000'

Drawn: KEW

Checked: WRW

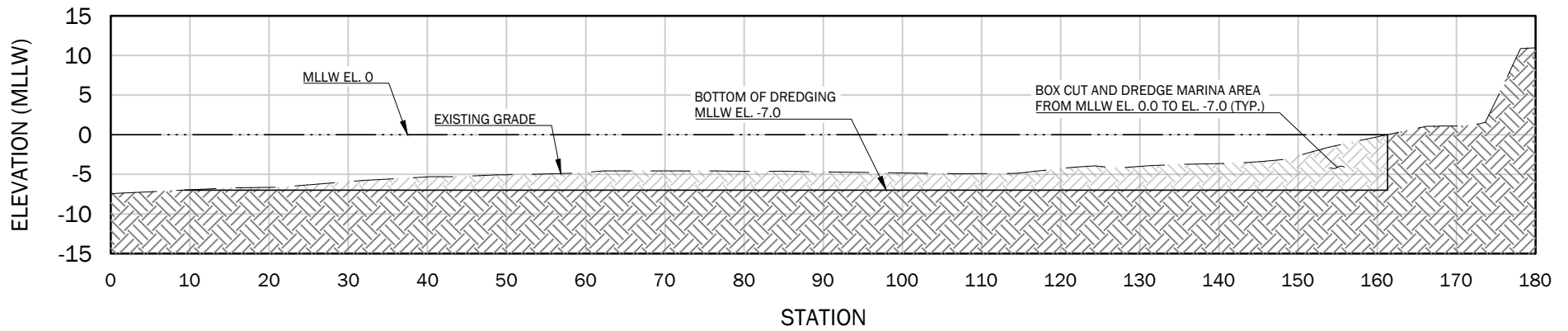
10.0 Isle of Shoals North Disposal Site Transportation Route



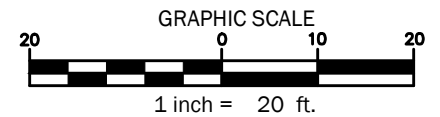
Location: The Isle of Shoals North (IOSN) Disposal Site is located in the Gulf of Maine, approximately 20 km (10.8 nmi) east of Portsmouth, New Hampshire, 17.7 km (9.55 nmi) southeast of Kittery, Maine, and 11.2 km (6.04 nmi) north of Eastern Island, the closest within the Isle of Shoals. The site is defined as a 2,600 m (8,530 ft) diameter circle on the seafloor with its center located at 70° 26.995' W and 43° 1.142' N.

Route: From the Kennebunkport Marina, navigate in a southerly direction towards the mouth of the Kennebunk River, then in a southwestern direction through the Gulf of Maine to the IOSN Disposal Site. The total transportation route distance from the Kennebunkport Marina to the IOSN Disposal Site is approximately 23 nautical miles.

Estimated Number of Trips to IOSN: The estimated quantity of dredge material expected to be removed from the Kennebunkport Marina is 3,675 cubic yards. It is estimated that the dredge scow that will be used to transport sediment to the IOSN Disposal Site will have between 500 and 600 cubic yards of capacity, which would result in 7 to 8 trips to the IOSN Disposal Site.



Kennebunkport Marina Dredging Section A-A'



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KENNEBUNKPORT MARINA DREDGING

KENNEBUNKPORT MARINA
67 OCEAN AVE
KENNEBUNKPORT, ME 04046

| | |
|--------------|--------------------------------|
| Sheet Title: | FIG 2: SECTION VIEW |
| Job No.: | 643.1 |
| Date: | December 2023 |
| Scale: | 1" = 20' |
| Drawn: | CAR/MNW |
| Checked: | WRW |