



**US Army Corps  
of Engineers®**

# PUBLIC NOTICE

Applicant:  
Stephen McCandless  
Town of Charlestown, Rhode Island

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**New England District  
Permit Application No. NAE-2011-00356**

TO WHOM IT MAY CONCERN: The New England District of the US Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

**APPLICANT:** Stephen McCandless  
Town of Charlestown, Rhode Island  
4540 South County Trail  
Town of Charlestown, RI 02813

**WATERWAY AND LOCATION:** The project would affect waters of the United States and navigable waters of the United States associated with Ninigret Pond. The project/review area is located within Ninigret Pond, on the Charlestown Town Beach, and on the Charlestown Breachway west wall jetty centered at Latitude 41.358547 and Longitude -71.638842; in Charlestown, Washington County, Rhode Island.

**EXISTING CONDITIONS:** A series of severe coastal storms caused substantial erosion to the beach, dune system, and back-barrier habitats adjacent to the breachway between December 2023 and January 2024. These impacts severely compromised the integrity of the natural coastal buffer and exposed vulnerabilities in the breachway infrastructure.

**PROJECT PURPOSE:** To continue the Town of Charlestown's long-term dredging and sediment management program for the Ninigret Pond and Charlestown Breachway system.

**Basic:** Not applicable. The project is not located within a special aquatic site.

**Overall:** To improve navigation, flow, and overall circulation within Ninigret Pond.

**PROPOSED WORK:** The applicant requests authorization to hydraulically perform new and maintenance dredging over a total area of approximately 17 acres within Ninigret Pond to a depth of -8 feet mean lower low water (MLLW) with 1-foot of allowable overdepth in the Primary Sedimentation Basin and a depth of -4.5 feet MLLW with 1-foot of allowable overdepth in the Secondary Sedimentation Basin and the Relief

Channel. A volume up to approximately 173,000 cubic yards is expected to be dredged annually and placed on the nearby Charlestown Town Beach and the Charlestown Breachway west jetty wall.

**AVOIDANCE AND MINIMIZATION:** The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Dredging, beach nourishment, and west jetty wall placement will be performed during the October 15<sup>th</sup> to January 31<sup>st</sup> environmental work window. The work will be performed with a hydraulic cutterhead suction dredge to reduce turbidity and control sediment removal. Ongoing bathymetric and ecological monitoring will be performed to adjust dredging activity based on actual site conditions and ecological response.

**COMPENSATORY MITIGATION:** The applicant has provided the following explanation why compensatory mitigation should not be required: Dredging in this area has been performed periodically for approximately 20 years resulting in successful preservation of water quality and habitat.

**CULTURAL RESOURCES:** The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places), are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officers (THPOs).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPOs, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

**ENDANGERED SPECIES:** The Corps has performed an initial review of the application, the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service (NMFS) Endangered Species Act Section 7 Mapper, and the NMFS Essential Fish Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will have no effect on USFWS ESA-listed species and is not likely to adversely affect NMFS ESA-listed species.

The Corps intends to initiate the ESA consultation separately from this public notice. A separate ESA consultation package will be sent to NMFS. The Corps will not make a permit decision until the consultation process is complete.

**ESSENTIAL FISH HABITAT:** Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information.

The Corps intends to initiate the Essential Fish Habitat (EFH) consultation separately from this public notice. A separate EFH consultation package will be sent to NMFS. The Corps will not make a permit decision until the consultation process is complete.

Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

**NAVIGATION:** The proposed structure or activity is not located in the vicinity of a federal navigation channel.

**SECTION 408:** The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

**WATER QUALITY CERTIFICATION:** Water Quality Certification may be required from the Rhode Island Department of Environmental Management.

**NOTE:** This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection

Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

**COMMENTS:** The Corps 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The New England District will receive written comments on the proposed work, as outlined above, until May 17, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to [dll-cenae-r-ct@usace.army.mil](mailto:dll-cenae-r-ct@usace.army.mil). Alternatively, you may submit comments in writing to the Commander, US Army Corps of Engineers, New England District, Attention: [dll-cenae-r-ct@usace.army.mil](mailto:dll-cenae-r-ct@usace.army.mil). Please refer to the permit application number in your comments.

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 public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.