

PUBLIC NOTICE

Comment Period Begins: September 17, 2024 Comment Period Ends: October 17, 2024 File Number: NAE-2011-00488 In Reply Refer to: Charles Farris, Regulatory Division Phone: (978) 318-8336 Email: charles.n.farris@usace.army.mil

The District Engineer, U.S. Army Corps of Engineers, New England District (USACE), has received a permit application, file number NAE-2011-00488, to conduct work in waters of the United States from Town of Chatham 549 Main Street, Chatham, MA 02633. This work is proposed in Chatham, Stage Harbor, Pleasant Bay, Nantucket Sounds in Chatham, MA. The site coordinates are: Latitude 41.689069°N Longitude -69.950190°W.

In January of 2014, Town of Chatham received an Individual Permit for conducting maintenance dredging of navigation channels, public mooring fields, and other town-maintained facilities over a ten-year period for a Comprehensive Town-wide Dredging and Disposal Program. As the Existing Permit is set to expire on December 31, 2024, the Town is seeking a new Permit authorizing the continuation of the Comprehensive Program for an additional 10-year period. For this Permit renewal, the town proposes to maintenance dredging at ten (10) locations, provide beach nourishment at 16 locations, and conduct nearshore ocean disposal of dredged sediments at four (4) locations.

In addition to the previously authorized work the town proposes the follow dredging and placement locations to be added as follows:

• Addition of dredging of a channel from Aunt Lydia's Cove to the northern inlet of Chatham Harbor. This would be improvement dredging for the purposes of establishing a navigation channel 150 feet wide and 8.0 feet deep within Chatham Harbor to ensure continuous navigational access between Aunt Lydia's Cove and other inner harbor maritime resources and the Atlantic Ocean.

• Addition of dredging of approximately 11,461 square feet of the bed of the Mitchell River at 90 Bridge Street. This work would be improvement dredging of approximately 11,461 square feet of the bed of the Mitchell River as an element of the redevelopment of the Town-owned property at 90 Bridge Street. It is proposed that future maintenance dredging of this area be included in the Comprehensive Program.

• Addition of the harvesting of approximately 10.9 acres of the Harding's Beach East Nearshore Disposal Site. It is proposed that sediments disposed at the Harding's Beach East Disposal Site by the USACE when that agency utilizes a hopper dredge for the dredging of Stage Harbor channel be utilized for beach nourishment. This material would be recovered and reused as beach nourishment material on those beach nourishment sites included in the Comprehensive Program that face Nantucket Sound. It is estimated that approximately 115,000 cubic yards of clean, previously dredged sandy material can be recovered from approximately 10.9 acres of this disposal site for the nourishment of these beaches.

• Expansion of beach nourishment at the Linnell Lane beach nourishment site to encompass a larger nourishment site. The resulting Linnell Lane beach nourishment site is proposed to be expanded to the west and south, increasing the total area from 41,140 square feet to approximately 279,000 square feet.

• Addition of the restoration of approximately 307,500 square feet (7.1 acres) of beach along the northeastern shore of Tern Island. The proposed beach nourishment of Tern Island will restore the general "footprint" of the island, as it existed prior to the formation of the north inlet in 2007. The proposed nourishment site totals approximately 307,500 square feet (7.1 acres).

• Establishment of a zone of potential dredging (ZPD) for the adaptive routing of the Stage Harbor entry channel. The Town proposes to establish a new ZPD to allow for flexibility in the routing of the Stage Harbor entry channel to best incorporate the naturally migrating channel at the time maintenance dredging is warranted. The proposed area of this ZPD is 906,000 square feet (20.8 acres). Within this ZPD, the Town and USACE will maintain a navigation channel that is 150 feet wide and 10 feet deep at Mean Lower Low Water (MLLW), subject to the same terms and conditions governing the adaptive routing decisions within Chatham's other ZPDs.

• Removal of the Outside Bar (1987 Inlet) nearshore ocean disposal site.

• Reduction in the authorized area of channel maintenance dredging within the Pleasant Bay estuary from approximately 43.9 acres to 24.9 acres.

All sites (existing and proposed) to be included in the Comprehensive Program renewal are listed in Table 1 and locations are depicted in Figures 1 and 2. Plan views and sections of each site are presented in Figures 3 through 58.

Table 1. Comprehensive Town-wide Dredging and Disposal Program – List of Dredge and Disposal Sites.

Site #	Site Name	Area (ft ²)
DS1	Mill Creek Entrance Channel	55,500
DS2	Stage Harbor Entrance Channel ZPD	450,000*
DS3	Barn Hill Landing	525
DS4	Old Mill Boat Yard	2,550
DS5	Trap Dock	900
DS6	Ryder's Cove Landing	2,350
DS7	Mitchell River (90 Bridge Street)	19,911
DS8	Aunt Lydia's Cove ZPD	2,600,000

DS9	Morris Island Cut ZPD	690,000*
DS10	Pleasant Bay ZPD	1,086,000*
DS11	Chatham Harbor ZPD	261,360*
DS12	Harding's Beach East Disposal Site	474,804
BN1	Pleasant Street	24,100
BN2	Forest Beach	111,700
BN3	Cockle Cove Beach	104,200
BN4	Harding's Beach	1,226,900
BN5	Oyster Pond Beach	17,800
BN6	Cotchpinicut Beach	2,600
BN7	Scatteree Landing	81,000
BN8	Claflin Landing	164,100
BN9	Andrew Harding's Lane/Lighthouse Beach	508,500
BN10	Barn Hill Landing	1,200
BN11	Battlefield Landing	7,200
BN12	Strong Island	5,600
BN13	Ryder's Cove	1,400
BN14	Mill Creek	33,100
BN15	Linnell Lane	325,800
BN16	Pleasant Street Private Lots	36,000
BN17	Tern Island	307,500
NS1	Harding's Beach East	1,450,000
NS2	Harding's Beach West	550,000
NS3	Nauset Beach	2,756,000
	TOTAL	12,218,600

* Area equals the area of channel dredging only. It does not equal the total area of the ZPD.

Proposed Dredging Program

The dredging component of the Comprehensive Program includes periodic maintenance dredging of 11 areas (DS1 through DS11), as indicated in Figure 1 and Figures 34 through 54. Based on the assumption that future maintenance requirements will approximate the conditions experienced since 2012, the anticipated volume and frequency of dredging at each of these sites during the next ten-year period are as presented in Table 2.

Table 2. Anticipated Volume and Frequency of Maintenance Dredging by Site – Ten-year Program.

Dredge Site	Frequency (events/10 yrs)	Volume (cubic yards/event)	Total Dredge Volume (cubic yards/10 years)
DS1 Mill Creek Entry	5	12,000	60,000
DS2 Stage Harbor Entry ZPD	10	30,000	300,000
DS3 Barn Hill Landing	3	100	300
DS4 Old Mill Boat Yard	3	200	600
DS5 Trap Dock	3	200	600
DS6 Ryder's Cove Landing	2	200	400
DS7 Mitchell River	2	200	400
DS8 Aunt Lydia's Cove ZPD	4	20,000	80,000
DS9 Morris Island Cut ZPD	3	15,000	45,000
DS10 Pleasant Bay ZPD	4	20,000	80,000
DS11 Chatham Harbor ZPD	5	15,000	75,000
DS12 Nearshore Disposal Site*	2	30,000	60,000
		Total	702,300

Proposed Disposal Program

Dredged material from the dredge sites will be disposed as either nourishment material on area beaches, unconfined sediment to existing nearshore disposal sites, or unrestricted fill material on an upland location. The proposed type of disposal by dredge site is presented in Table 3.

Table 3 Proposed Type of Disposal by Dredge Site

Dredge Site	Type of Disposal
DS1 Mill Creek Entry	beach nourishment
DS2 Stage Harbor Entry ZPD	beach nourishment and/or unconfined nearshore disposal
DS3 Barn Hill Landing	upland disposal site
DS4 Old Mill Boat Yard	upland disposal site
DS5 Trap Dock	upland disposal site
DS6 Ryder's Cove Landing	beach nourishment
DS7 Mitchell River	upland disposal site
DS8 Aunt Lydia's Cove ZPD – Area A	beach nourishment and/or unconfined nearshore disposal
DS8 Aunt Lydia's Cove ZPD – Area B	upland disposal site
DS8 Aunt Lydia's Cove ZPD – Area C	upland disposal site
DS9 Morris Island Cut ZPD	beach nourishment and/or unconfined nearshore disposal
DS10 Pleasant Bay ZPD	beach nourishment and/or unconfined nearshore disposal
DS11 Chatham Harbor ZPD – Area A	beach nourishment and/or unconfined nearshore disposal
DS11 Chatham Harbor ZPD – Area B	upland disposal site
DS12 Nearshore Disposal Site	beach nourishment

Beach Nourishment

Beach nourishment disposal is to be conducted at a total of 17 beach sites, as indicated in Figures 2 through 33. The proposed area (square feet) of each beach nourishment site is presented in Table 4.

Site #	Site Name	Area (square feet)
BN1	Pleasant Street	24,100
BN2	Forest Beach	111,700
BN3	Cockle Cove Beach	104,200
BN4	Harding's Beach	1,226,900
BN5	Oyster Pond Beach	17,800
BN6	Cotchpinicut Beach	2,600
BN7	Scatteree Landing	81,000
BN8	Claflin Landing	164,100
BN9	Andrew Harding's Lane/Lighthouse Beach	508,500
BN10	Barn Hill Landing	1,200
BN11	Battlefield Landing	7,200
BN12	Strong Island	5,600
BN13	Ryder's Cove	1,400
BN14	Mill Creek	33,100
BN15	Linnell Lane	325,800
BN16	Pleasant Street Private Lots	36,000
BN17	Tern Island	307,500
	TOTAL	2,958,700

Table 4. Area of Proposed Beach Nourishment Sites

All beach nourishment material will be placed and graded to a slope not exceeding 10:1 (horizontal:vertical).

Unconfined Nearshore Disposal

The existing permit issued for the Comprehensive Program authorize the use of a total of four (4) nearshore disposal sites for the unconfined disposal of dredged material from a hopper dredge. The current proposal is to continue with the use of three (3) of these

sites, as depicted in Figures 2, 55, and 58, over the next ten-year period. The area of each nearshore disposal site is presented in Table 5(?).

Table 5. Area of Proposed Nearshore Disposal Sites

Site #	Site Name	Area (square feet)
NS1	Harding's Beach East	1,450,000
NS2	Harding's Beach West	550,000
NS3	Nauset Beach	2,756,000
	TOTAL	4,756,000

Upland Disposal Sites

It is anticipated that sediments to be dredged from the Barn Hill Landing, Old Mill Boat Yard, Trap Dock, Aunt Lydia's Cove ZPD Areas B and C, Chatham Harbor ZPD Area B, and Mitchell River (90 Bridge Street) dredge sites will contain a substantial component of fine (i.e., silt and clay) material. The results of grain size distribution analyses completed on sediment samples collected from these sites indicate that the fine components generally exceed 10 percent of the sample by weight. Such material is considered incompatible with the sediments of the proposed beach nourishment and nearshore disposal sites. Accordingly, the material dredged from these sites will be dewatered on adjacent uplands and trucked from there for disposal at an upland disposal site approved and permitted for receipt of dredged material. The proposed dewatering basin design is presented in Figure 59.

The work is shown on the enclosed plans titled "Chatham Town-wide Dredging Program," on 59 sheets, and dated "December 15, 2022; revised March 18, 2024."

Dredging is to be conducted using a combination of mechanical and hydraulic methods, depending on the availability of equipment at the time the dredging is warranted. Also, all dredging activities conducted under the Comprehensive Program will continue to adhere to the site-specific time-of-year (TOY) restrictions defined in the issued municipal, State, and Federal permits. Most of the material is predominantly sand with sand grain fractions of 90%. Any material that is not predominantly sand will be placed in an upland location in Chatham.

All impacts to critical habitats will be avoided and the USACE will perform the required consultations under Section 7 of the Endangered Species Act and the Magnusson-Stevens Act for impacts to Endangered Species and Essential Fish Habitat respectively.

AUTHORITY

Permits are required pursuant to:

- x Section 10 of the Rivers and Harbors Act of 1899
- x Section 404 of the Clean Water Act
- _____ Section 103 of the Marine Protection, Research and Sanctuaries Act.
- x 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.

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 activities proposed herein **will** also require permission from the USACE pursuant to 33 U.S.C. 408 **because** it will alter or temporarily or permanently occupy or use twoUSACE federally authorized Civil Works projects known as]. Aunt Lydia Cove FNP and Chatham (Stage Harbor)FNP. The proposed alteration is located in both FNPs. Dredge site DS-8 is in Aunt Lydia Cove and dredged sites DS4, DS5 and DS2 are in Stage Harbor. A permit pursuant to Section 10/404shall 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 12,218,600 <u>SF</u> of EFH. Habitat at this site can be described as predominantly sand and mobile shoals in a high energy subtidal habitat. The represents the material that will be dredged in the various ZPDs.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 various beach nourishment sites within Chatham. All receiving beaches have been tested to make sure the dredged material and the receiving beach are both of compatible material substrate. The District Engineer has made a preliminary determination that the site-specific adverse effect at the dredging sites and the receiving beaches 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.

This project will impact <u>2,958,700 SF</u> of EFH. This habitat consists of sandy beach locales above mean high water where beach placement will occur. Loss of this habitat may adversely affect species that use these substrates. Also effected will be 4,756,000 SF of EFH in subtidal near shore environment, consisting of submerged sandy sediment beds. This is where some sediments will be placed in nearshore disposal locations. 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 (undertaking), there is no potential that the undertaking would affect historic properties. This conclusion is based upon the nature of the undertaking and site-specific conditions.

Based on our initial review of the proposed project and coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer(s), no historic properties were identified within the permit area or the area of potential effects. If the USACE receives new information that warrants a different determination of effects to historic properties, we will consult under Section 106 as required.

ENDANGERED SPECIES CONSULTATION

The USACE is reviewing 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 as amended. Our review and any necessary 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.

(x) Permit from local wetland agency or conservation commission.

(x) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

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 Managing Team (DMMT) of the USACE NAE Planning Department provided the applicants with a sampling plan on January 4, 2024. Physical and chemical data were provided to the DMMT on March 27, 2024. Biological data was provided to the DMMT by the applicant on April 3, 2024. The DMMT provided the final suitability determination to NAE Regulatory on August 20, 2024.

Conclusions of the Evaluation

This determination addresses the suitability of dredged material from the proposed maintenance and improvement dredging of the various shoal areas within the waterways of Chatham.

The USACE NAE finds that sufficient data have been provided to satisfy the evaluation and testing requirements of Section 404 of the Clean Water Act (CWA). The USACE NAE finds the sediments from the Mill Creek Entrance Channel, Stage Harbor Zone of Potential Dredging (ZPD), Ryder's Cove Landing, one of the Town Fish Pier berthing areas, the Morris Island Cut ZPD, the Pleasant Bay ZPD, the Harding's Beach Nearshore Dredge Area as well as portions of the Aunt Lydia's Cove and Chatham Harbor ZPDs suitable for direct beach placement and nearshore placement. USACE NAE also finds portions of the Chatham Harbor ZPD unsuitable for direct beach placement but suitable for nearshore placement and portions of the Aunt Lydia's Cove ZPD unsuitable for both direct beach and nearshore placement due to a higher content of fine-grained material. Alternatives available to the applicant for unsuitable areas include upland disposal or open water disposal if appropriate placement sites are identified.

For Section 404 Permits (LIS disposing ≤25,000 CY, Cape Cod Bay, Rockland, and nearshore disposal sites as described)

The dredged material has undergone physical, chemical, and/or biological analysis. It is

our preliminary determination that the material is acceptable for disposal at this disposal site.

Any permit issued for this project will include special conditions requiring scows to come to a complete stop when disposing of the material at the disposal site. There will also be a time of year restriction included as a special condition which prohibits dredging during ecologically sensitive times of years.

COMMENTS

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. 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 Charles Farris, Regulatory Division, at <u>charles.n.farris@usace.army.mil</u>, (978) 318-8336.

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 <u>NOT</u> AN AUTHORIZATION TO DO ANY WORK.

Paul Maniccia

Paul Maniccia

Chief, Massachusetts Section Regulatory Division

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

























DATE: 12/15/2022 REV:03/18/24









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