



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

696 Virginia Road
Concord, MA 01742-2751

Public Notice

In Reply Refer to: Ms. Coral Siligato
nae-pn-nav@usace.army.mil

Programs & Project
Management Division

Date: October 22, 2018

Comment Period Closes: November 20, 2018

30 DAY PUBLIC NOTICE

MAINTENANCE DREDGING OF THE CAPE PORPOISE HARBOR FEDERAL NAVIGATION PROJECT, KENNEBUNKPORT, MAINE

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps), New England District (NAE), plans to perform maintenance dredging of the Federal navigation project (FNP) at Cape Porpoise Harbor, Kennebunkport, ME, involving work in the navigable waters of this District, under the provisions of Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532) and Section 404 of the Clean Water Act of 1977 (P.L. 95-217) and to authorize such work in accordance with Title 33, Parts 335-338 of the Code of Federal Regulations. Attachment No. 1 lists pertinent laws, regulations, and directives.

Project Description: The proposed work involves maintenance dredging of the 15-foot-deep Mean Lower Low Water (MLLW) channel and anchorage, and the 6-foot-deep MLLW channel, plus authorized overdepth, in the Cape Porpoise Harbor FNP (See Attachment No. 2). The 15-foot MLLW channel and anchorage will be dredged to a depth of 10-feet MLLW, which would allow project users to maintain safe navigation in these portions of the FNP. Meanwhile, the 6-foot MLLW channel will be dredged to authorized dimensions, plus allowable overdepth. The existing project was adopted on March 3, 1899, and modified by the Rivers & Harbors Acts of March 2, 1907 and June 30, 1948.

Character and Purpose of Work: Natural shoaling processes have reduced available depths to as little as 1.0 foot in the 15-foot MLLW channel and anchorage, and 2.0 feet in the 6-foot MLLW channel making navigation hazardous or impossible at lower stages of the tide. Maintenance dredging of approximately 25,000 cubic yards of primarily fine- and medium-grain sand, and silt from approximately 12 acres of the authorized project area will maintain the FNP to required and authorized dimensions (See Attachment No. 3). A private contractor, under contract to the government, will use a mechanical dredge and scows to remove the material and then transport it for placement at the Cape Arundel Disposal Site (CADS) or the Portland Disposal Site (PDS) if the CADS is unavailable at the time of construction. Construction is expected to take between 1-3

months within the anticipated allowable dredge window of November 1 to March 15 of the year(s) in which funds become available. The work is currently anticipated to be performed in 2019/2020. If dredging is not complete in one season, construction will occur the following season within the allowable dredge window. The application of this window will limit adverse impacts to federally-listed endangered and threatened species as well as avoid the eelgrass growing season, and the spawning of winter flounder and shellfish. The Corps will allow the contractor to dredge 24 hours per day, 7 days per week. The Town of Kennebunkport requested that this project be maintained.

Disposal Areas: The Cape Arundel Disposal Site (CADS) is located approximately 2.75 nautical miles southeast of Cape Arundel, Maine and is centered at 43°17.805' N and 70° 27.170' W with a depth range of 90 to 105 feet (Attachment No. 4). The Corps previously used this site in 1976 when the Cape Porpoise Harbor FNP was last dredged. The U.S. Environmental Protection Agency closed CADS in 2010 when it reached the maximum amount of time allotted for its use. Congressional authorization in the Energy and Water Development and Related Agencies Act reopened the site in 2014 and it is slated to close on January 17, 2019 unless Congressional authorization extends the site's status. Authorization also requires that the site not be used for disposal of more than 80,000 cy from any single Federal dredging project. Due to the fact that CADS may close prior to project construction, a second open water disposal site, the Portland Disposal Site (PDS), is also in consideration for this project (Attachment No. 5). PDS is located about 21 nautical miles northeast of Cape Porpoise and is centered at 43° 34.111' N, 70° 01.9386' W in water depths of 138-203 feet. Dredged material disposed at PDS comes from a number of industrialized and recreational harbors and rivers from Maine, primarily Portland Harbor, and New Hampshire.

Both of these disposal sites have been monitored through the Corps' Disposal Area Monitoring System (DAMOS) program. DAMOS studies show that the sites are located in low energy environments such that sediment deposited at these locations will remain within the boundaries of each site. The dredged material has undergone physical, chemical, and biological testing and has satisfied the criteria for ocean disposal of dredged material at both PDS and CADS as specified in Part 227 of the Marine Protection, Research and Sanctuaries Act regulations and Section 404 of the Clean Water Act.

Additional Information: Additional information may be obtained from Ms. Coral Siligato, Civil Works/IIS Project Management Branch, Programs and Project Management Division, at the return address shown, by email at nae-pn-nav@usace.army.mil or by telephone at (978) 318-8012.

Coordination: The proposed work has, or will be coordinated with the following agencies:

Federal:

U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
National Marine Fisheries Service

State of Maine:

Maine Department of Environmental Protection
Maine Department of Agriculture, Conservation, and Forestry; Maine Coastal Program
Maine Department of Marine Resources
Maine Historic Preservation Office

Tribal Nations:

The Penobscot Nation

Local:

Town of Kennebunkport

Environmental Impacts: An Environmental Assessment is in preparation and available for review upon request. I have made a preliminary determination that an Environmental Impact Statement for the proposed maintenance dredging is not required under the provisions of the National Environmental Policy Act of 1969. This determination will be reviewed in light of facts submitted in response to this notice.

Federal Consistency with the Maine Coastal Zone Management Program: I find that maintenance dredging of the authorized navigation project is consistent, to the maximum extent practicable, with the State of Maine's management program established as a result of the Coastal Zone Management Act of 1972. The dredging and placement operations will be conducted, to the maximum extent practicable, in a manner that is consistent with the approved management program.

Other Information:

- a. Local Sponsor: The Town of Kennebunkport, Maine, is the local sponsor for the proposed work.
- b. Non-Federal Dredging: To date there are no non-Federal dredging projects proposed in connection with the proposed Federal maintenance dredging. Facility and property owners within the harbor who may be interested in performing non-Federal dredging concurrently with this project should be aware that work will require a permit from the Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and, depending on the location of the non-Federal dredged material disposal, may also require a Corps permit under Section 404 of the Clean Water Act. In order to be disposed of in ocean waters, private dredged material must be determined to be suitable for such disposal.
- c. Previous Dredging: The Corps most recently dredged the harbor in 1976. At that time, a mechanical dredge removed approximately 123,000 cubic yards of sediment from the 15-foot channel, 15-foot anchorage, and 6-foot channel, and placed the material at the Cape Arundel Disposal Site.
- d. Alternate Disposal Methods: Alternate disposal options that have been considered include open-ocean disposal, beach and nearshore disposal, and upland disposal. The dredge material

is not appropriate for nearshore or beach placement, therefore open-ocean disposal at the Cape Arundel or Portland Disposal Sites are pursued. A suitable upland disposal site was not identified.

e. Endangered Species: It is our preliminary determination that no threatened or endangered species will be impacted by the proposed project. The Corps will consult with the National Marine Fisheries Service and the United States Fish and Wildlife Service to ensure that the proposed activity will not significantly affect any species or critical habitat designated as endangered or threatened pursuant to the Endangered Species Act of 1973 (87 Stat. 844).

f. Floodplain Management: In accordance with Executive Order 11988, the Corps has determined that the proposed work will not contribute to negative impacts or damages caused by floods.

g. Cultural Resources: The proposed work consists of maintenance dredging of the FNP in previously dredged areas and placing the dredge material in a previously-used disposal site, and will not affect any cultural or archaeological features or resources in the area of dredging or disposal. The Corps has coordinated this project with the Maine Historic Preservation Commission and the Tribal Historic Preservation Officer of the Penobscot Nation; it was found to have no impact on any structures or sites of historic or archaeological significance as defined by the National Historic Preservation Act and implementing regulations (36 CFR 800).

h. Essential Fish Habitat Assessment: The Corps has determined that the project may have a temporary adverse effect on Essential Fish Habitat (EFH). The project site is contained within areas designated as EFH as defined by the Magnuson-Stevens Fishery Conservation and Management Act and amended by the Sustainable Fisheries Act of 1996 for Federally-managed fish species. The Corps assessed the effects that the project is likely to have on EFH and determined that they will be short-term and localized and that there will be no significant impacts on the designated fisheries resources. The Corps will consult with the National Marine Fisheries Service to ensure that any potential impacts will be minimized.

i. Additional Requirements: The Corps has requested a 401 Water Quality Certificate from the State of Maine and Coastal Zone Management Consistency Determination Concurrence from the Maine Coastal Program office of the Maine Department of Agriculture, Conservation, and Forestry.

The decision whether to perform the proposed work 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 benefits, which reasonably may be expected to accrue from the proposal, will be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered; among these are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classification, and the welfare of the people.

Any person who has an interest, which may be affected by the dredging and placement of this dredged material may request a public hearing. The request must be submitted in writing to the

District Engineer within the comment period of this notice and must clearly set forth the interest, which may be affected and the manner in which the interest may be affected by this activity.

Please bring this notice to the attention of anyone you know to be interested in this project. Comments are invited from all interested parties and should be directed to the U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751; ATTN: Coral Siligato; or emailed to nae-pn-nav@usace.army.mil within 30 days of this notice.

18 OCT 2018
Date


William M. Conde
Colonel, Corps of Engineers
District Engineer

Attachments

Attachment 1

PERTINENT LAWS, REGULATIONS, AND DIRECTIVES

Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.)

Clean Water Act, as amended (33 U.S.C. 1251 et. seq.)

Code of Federal Regulation, Title 33, Parts 335 through 338

National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347)

Fish and Wildlife Coordination Act (16 U.S.C. 661-667e)

Fish and Wildlife Act of 1956 (16 U.S.C. 742a, et. seq.)

Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g)

Coastal Zone Management Act of 1972 (16 U.S.C. 1456)

National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.)

Endangered Species Act of 1973 as amended (16 U.S.C. 1531 et seq.)

Clean Air Act, as amended (42 U.S.C. 7401 et. seq.)

Estuary Protection Act (16 U.S.C. 1221 et. seq.)

Federal Water Project Recreation Act, as amended (16 U.S.C. 460L-12 et. seq.)

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460L et. seq.)

Magnuson-Stevens Fishery Conservation and Management Act as amended by the
Sustainable Fisheries Act of 1996 (16 U.S.C. 1801 et seq.)

Executive Order 11988, Floodplain Management, 24 May 1977

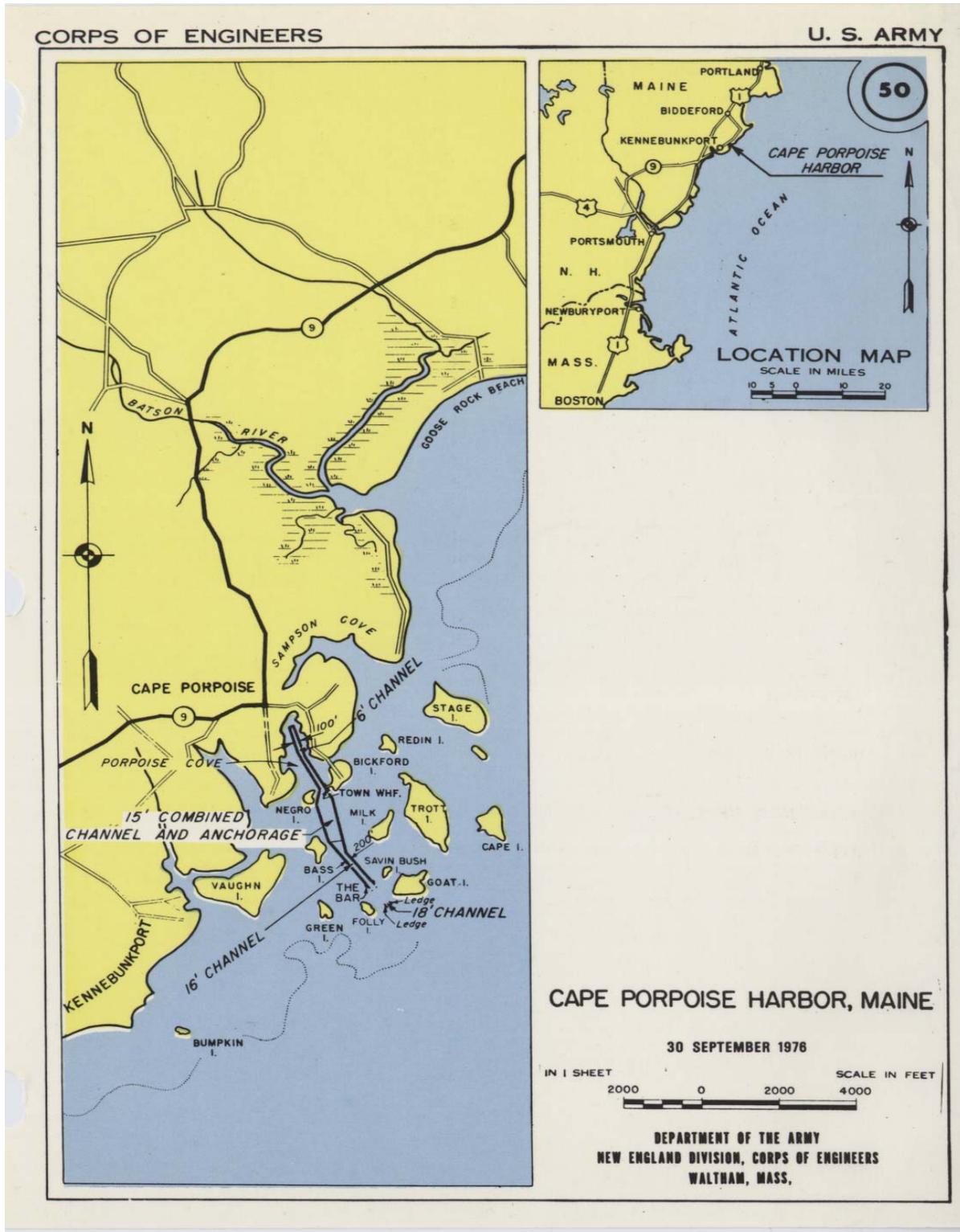
Executive Order 11990, Protection of Wetlands, 24 May 1977

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority
Populations and Low Income Populations, 11 February 1994

Executive Order 13045, Protection of Children from Health Risks and Safety Risks,
21 April 1997

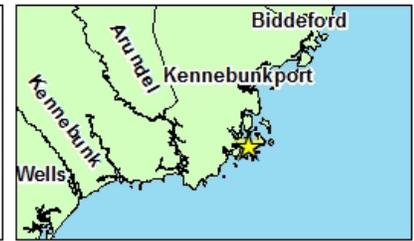
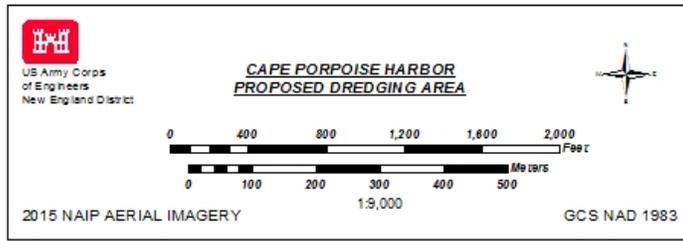
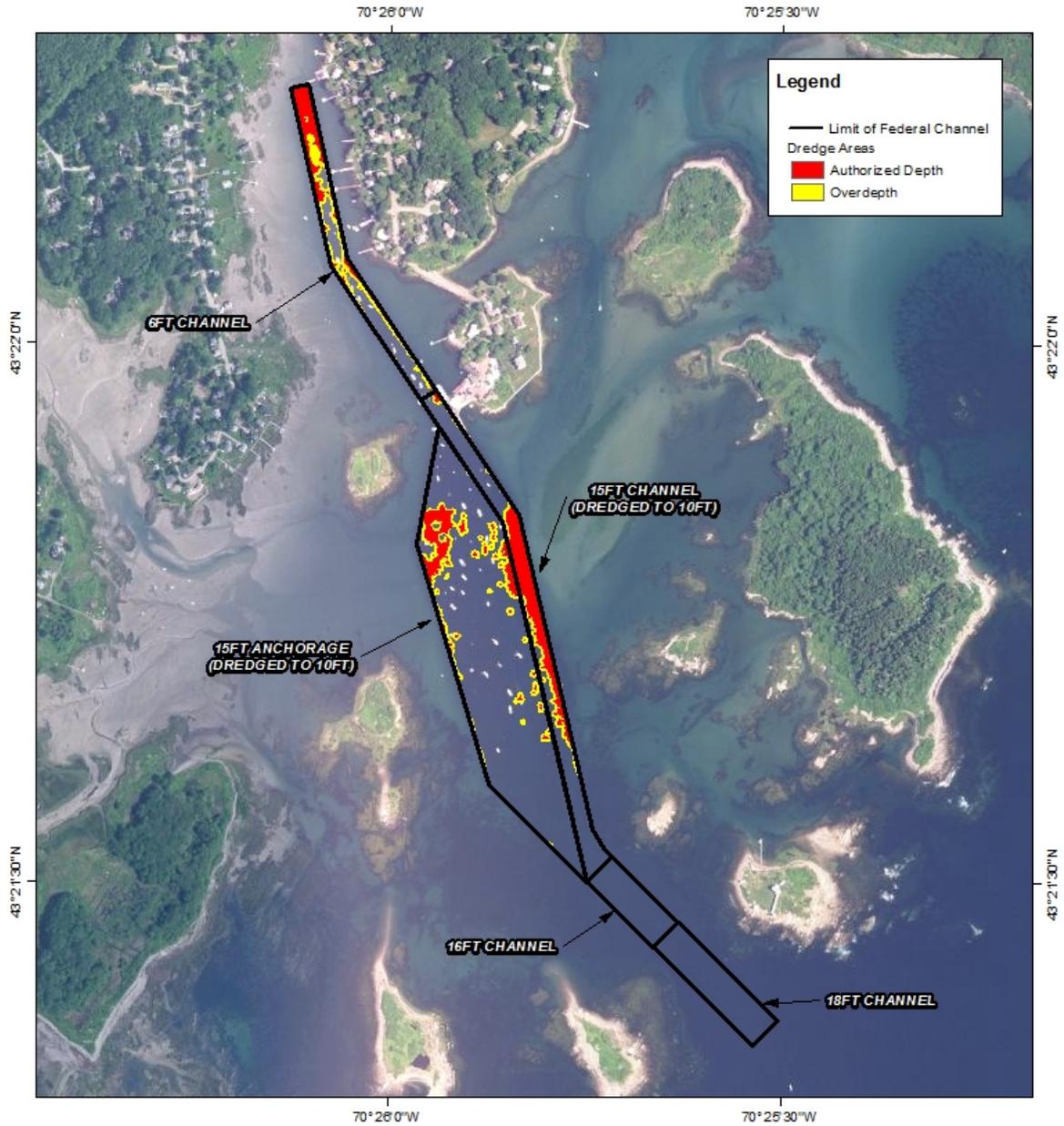
Attachment 2

Cape Porpoise Harbor Federal Navigation Project



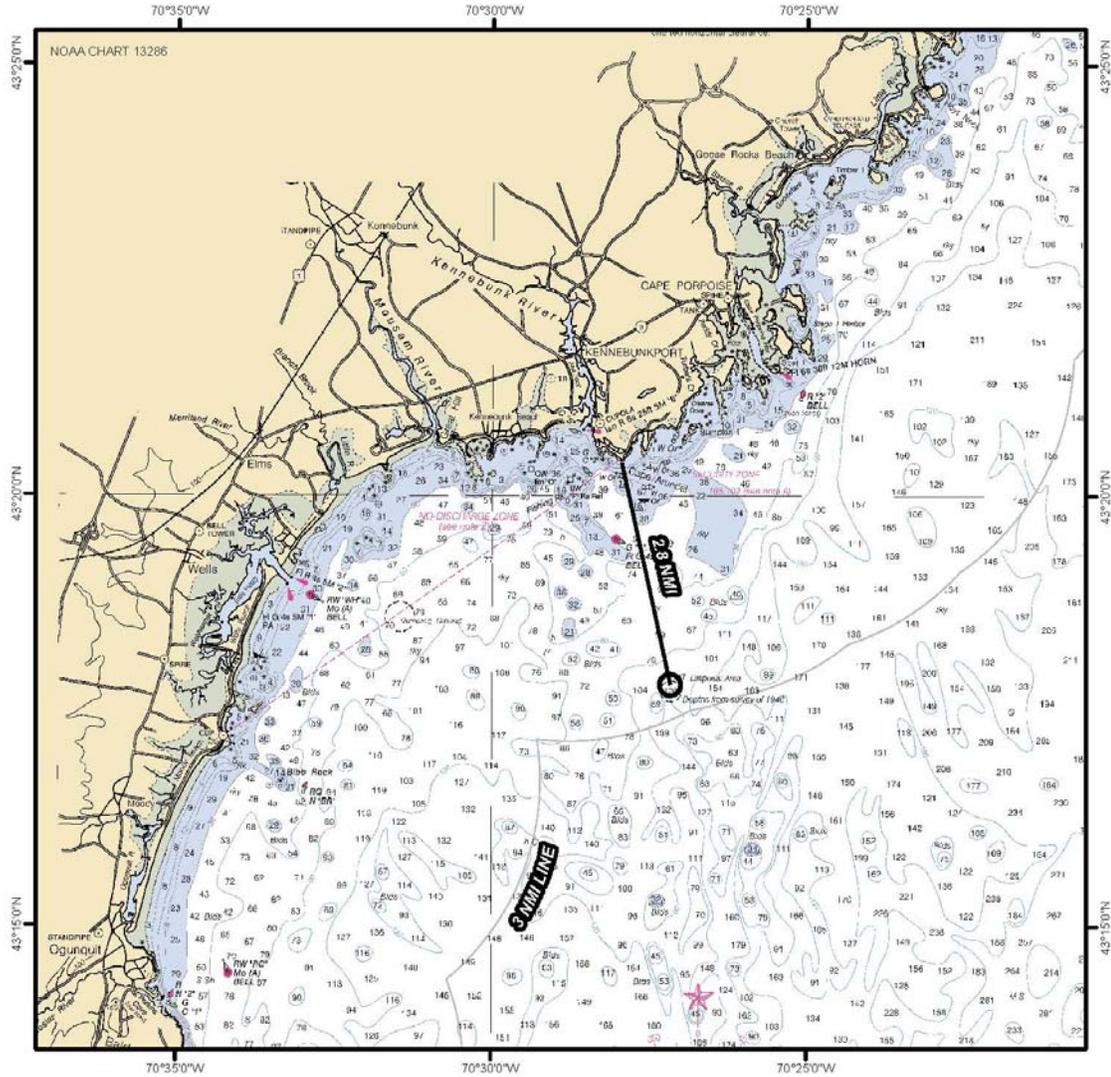
Attachment 3

Cape Porpoise Harbor Proposed Dredge Areas



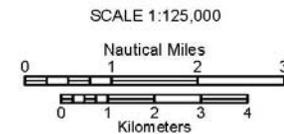
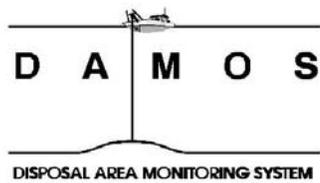
Attachment 4

Cape Arundel Disposal Site (CADS)

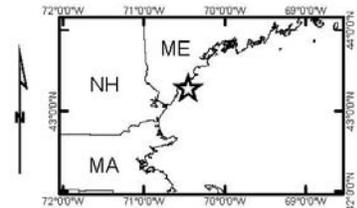


CAPE ARUNDEL DISPOSAL SITE

Description: The Cape Arundel Disposal Site (CADS) is located approximately 2.8 nmi (5.1 km) southeast of Cape Arundel, Maine. The site consists of a 500 yd diameter circle centered at 43° 17.805' N, 70° 27.170' W (NAD 83). Its bottom topography is characterized by a north-south trending trough running 1 km in length and 50 to 250 m wide. This trough has a maximum depth of 43 m and a silt/clay bottom admixed with fine sand. It is flanked by hard rock ridges shoaling up to 30 to 32 m in depth. The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project documents.

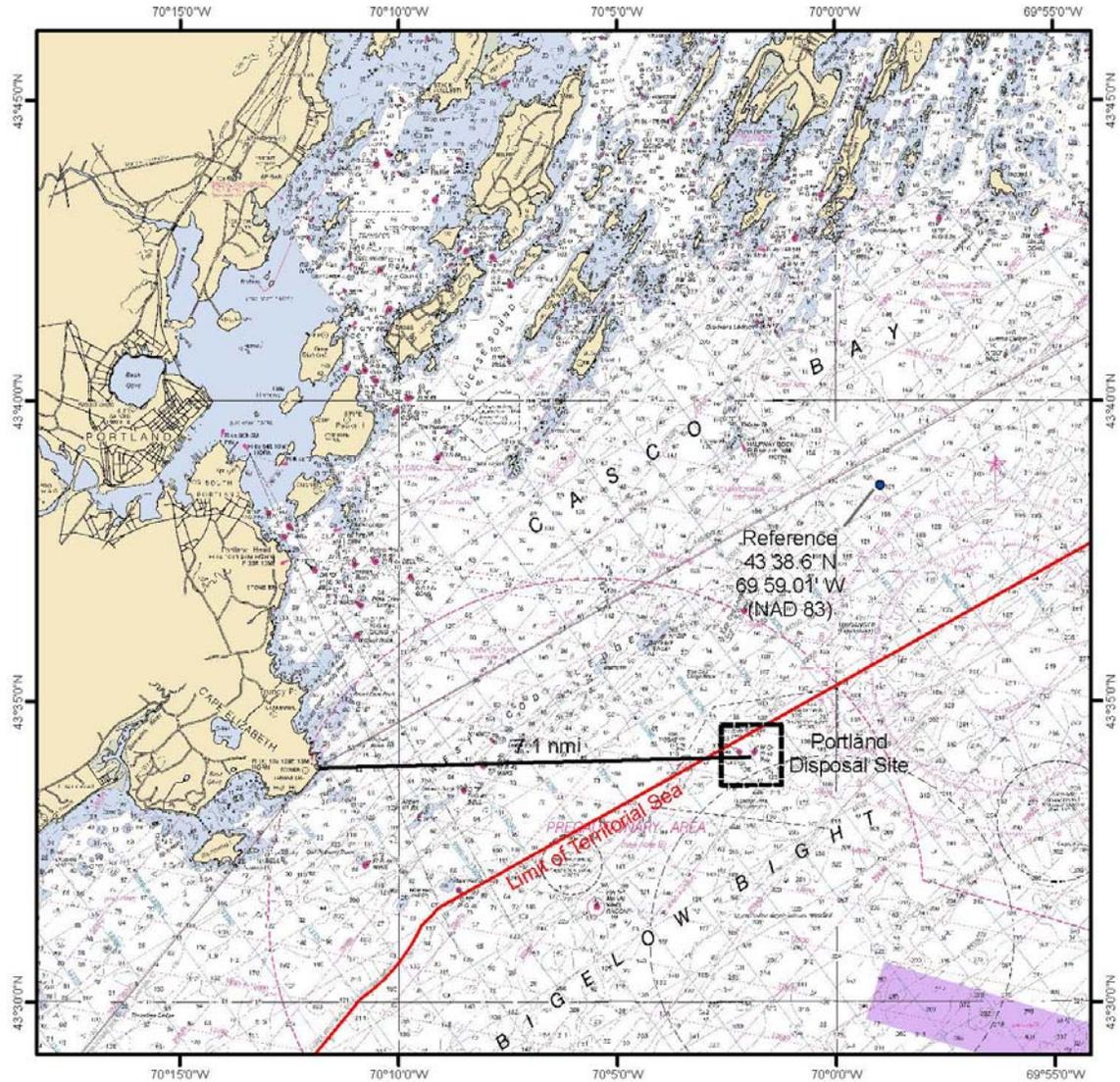


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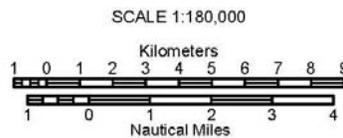
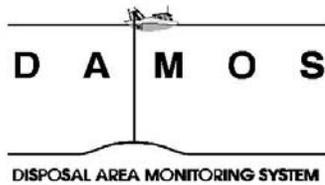
Attachment 5

Portland Disposal Site (PDS)



PORTLAND DISPOSAL SITE

Description: The Portland Disposal Site (PDS) is one of three regional dredged material disposal sites located in the waters of Maine. It covers a 1 nmi² (3.4 km²) area of seafloor centered at 43° 34.111' N, 70° 01.9386' W (NAD 83), approximately 7.1 nmi (13.2 km) east of Dyer Point, Cape Elizabeth, Maine. PDS is characterized by a rough, irregular bottom topography, with areas of soft sediment accumulation in the basins among bedrock outcrops. The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project documents



NOTE: This chart is not intended for use in navigation.

