



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

696 Virginia Road  
Concord, MA 01742-2751

# Public Notice

In Reply Refer to: **Programs/Project  
Management Division**

Email: **nae-pn-nav@usace.army.mil**

Date: **May 20, 2013**

Comment Period Closes: **June 20, 2013**

## 30 DAY PUBLIC NOTICE

### **MAINTENANCE DREDGING OF THE FEDERAL NAVIGATION PROJECT IN THE SCARBOROUGH RIVER, SCARBOROUGH, MAINE**

Interested parties are hereby notified that the U.S. Army Corps of Engineers, New England District, plans to perform maintenance dredging of the Federal Navigation Project (FNP), involving work in the navigable waters of this District, under the provisions of 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 1 lists pertinent laws, regulations, and directives.

**Project Description:** The proposed work involves maintenance dredging of the 8 foot deep Mean Lower Low Water (MLLW) channel and the 6 foot deep MLLW anchorage area at the Scarborough River Federal navigation project. The existing project was authorized May 17, 1950 by the 81<sup>st</sup> Congress, 1<sup>st</sup> Session, as outlined in House Document No. 69.

**Character and Purpose of Work:** Shoaling due to Hurricane Sandy has reduced available depths to as little as 1.3 feet deep MLLW in the channel and anchorage area. Shoaling in the entrance channel is making navigation to and from the anchorage hazardous at lower stages of the tide. Additionally, shoaling in the anchorage area has significantly reduced useable mooring space in the harbor. Maintenance dredging of about 100,000 cubic yards of sand from approximately 42.2 acres of the authorized project area will restore the project to authorized dimensions (See Attachment 2).

The work will be performed by a private contractor under contract to the Government. A hydraulic dredge will be used to remove the sand shoals from the FNP and pump the material to Western Beach (Attachment 2). State of Maine and Town of Scarborough officials have requested that this project be maintained. Funding to perform this work was included in the Disaster Relief Appropriations Act of 2013 (PL 113-2), and the work will be performed during a two to three month period between the months of October through March.

**Disposal Options:** The material to be dredged has undergone physical analysis, in coordination with State and Federal resource agencies. The dredge material is clean sand and our determination is that it is acceptable for either unconfined open water disposal, nearshore disposal, or beach nourishment. The Town of Scarborough (the project local sponsor) has requested the dredge material be deposited on the nearby Western Beach (Attachment 2), which is experiencing erosion. Under this option, a hydraulic dredge would be used to remove the material from the channel and anchorage. The material would be pumped to the disposal area (beach) where the sand will settle out and the pump water will discharge over the beach and back into Saco Bay.

**Additional Information:** : For further information on the project please contact the project manager Mr. Mike Walsh, Programs & Civil Project Management Branch, Programs Project Management Division, at the return address shown, telephone number (978) 318-8586.

**Coordination:** The proposed work is being coordinated with the following Federal, State, and local agencies:

Federal

Environmental Protection Agency  
US Fish and Wildlife Service  
National Marine Fisheries Service

State of Maine

Department of Environmental Protection  
Maine Department of Marine Resources  
Maine Department of Inland Fish and Wildlife  
State Planning Office  
ME Historic Preservation Office  
Maine Geological Survey

Town of Scarborough

Harbor Master  
Scarborough Town Manager

**Environmental Impacts:** An Environmental Assessment for this work has been prepared. I have made a preliminary determination that an Environmental Impact Statement 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 Maine's 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 disposal operation 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 Scarborough is the local sponsor for the proposed work.
- b. Previous Dredging: The most recent maintenance dredging of the channel and anchorage was performed in 2004 when approximately 85,000 cubic yards of material were removed and disposed of on Western Beach.
- c. Alternatives: The proposed work involves maintenance of an existing Federal channel and anchorage area. The only alternative to maintenance dredging is the No Action alternative. This would allow existing conditions to remain and worsen as shoaling continues, hindering navigational access and compromising vessel safety. Regarding disposal alternatives, in conjunction with the Town of Scarborough, we reviewed potential nearshore and beach disposal sites and determined that using the material beneficially for beach nourishment was operationally feasible and practicable.

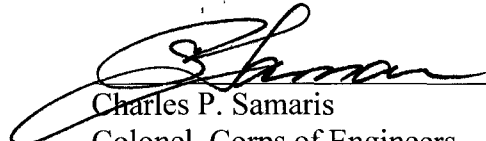
- d. Non-Federal Dredging: No private dredging is currently proposed in conjunction with this project. If there are facility owners within the harbor that are interested in performing dredging concurrently with this project, that work will require permits from the Army Corps of Engineers under Section 404 of the Clean Water Act and will be published in separate public notices.
- e. Endangered Species: Areas within Scarborough, ME, particularly around Pine Point Beach and on Western Beach, do provide potential habitat for the Piping Plover. The Piping Plover (*Charadrius melodius*) has been listed as a threatened species under the Endangered Species Act of 1973. It is a small, stocky shorebird which nests in shallow bare areas of sand, small pebbles, or gravel along shorelines. The Army Corps of Engineers will engage the appropriate State and Federal agencies during the coordination of the Environmental Assessment to insure there will be no significant impacts to the Piping Plover from the maintenance dredging activity. There are no other known threatened or endangered species in the project area.
- f. Floodplain Management: In accordance with Executive Order 11988, the Corps of Engineers 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 involving previously dredged areas and a previously used disposal site, and is not likely to affect any cultural or archaeological features or resources.
- h. Essential Fish Habitat Assessment: It has been 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 U.S. Army Corps of Engineers has assessed the effects that the project is likely to have on EFH and has 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: An application for Water Quality Certification is being submitted to the Maine Department of Environmental Protection, under Section 401 of the Clean Water Act of 1977 (P.L. 95-217), along with a request for the state's concurrence with our determination of Federal consistency with the state's approved coastal zone management program. The Clean Water Act of 1977 requires that the work comply with State or interstate requirements to control the discharge of dredged or fill material.

The decision whether to perform the 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 disposal of this dredged material may request a public hearing. The request must be submitted in writing to me within 30 days of the date 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: Michael Walsh, within 30 days of this notice.

20 May 13  
Date

  
Charles P. Samaris  
Colonel, Corps of Engineers  
District Engineer

Attachments

## **Attachment 1**

### **PERTINENT LAWS, REGULATIONS, AND DIRECTIVES**

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

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

Coastal Zone Management Act of 1972[16 U.S.C. 1456(c)(1) and (2)], Sections 307(c)(1) and (2)]

Code of Federal Regulation, Title 33, Navigation and Navigable Waters

Endangered Species Act of 1973 as amended (16 U.S.C. 1531-1544)

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

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

Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460I-4 et. seq.)

Magnuson-Stevens Fishery Conservation and Management Act as amended through January 12, 2007 and amended by the Sustainable Fisheries Act of 1996

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

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

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

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 Environmental Health Risks and Safety Risks, 21 April 1997

## Attachment 2

