

RHODE ISLAND COASTLINE COASTAL STORM RISK MANAGEMENT Draft Feasibility Study

APPENDIX A: Environmental



January 31, 2022



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

APPENDIX A1

Draft Coastal Zone Management Consistency Determination



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

February XX, 2022

Planning Division

Mr. Jeffrey Willis, Executive Director
Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, Rhode Island 02879

Dear Mr. Willis:

I am writing to request your concurrence with our Coastal Zone Management Consistency Determination for the Rhode Island Coastline Coastal Storm Risk Management (CSRM) project pursuant to 15 CFR § 930 Subpart C – Consistency for Federal Agency Activities. The CSRM study area includes more than 457 miles of coastline with all or part of 19 municipalities in the State of Rhode Island (Figure 1). The study was authorized by a resolution adopted by the Senate Public Works Committee dated 12 September 1969, a resolution adopted by the Senate Committee on Environment and Public Works dated August 2, 1995, and by Public Law (PL) 84-71.

The Rhode Island Coastline CSRM project plan formulation considered a range of structural and nonstructural measures to reduce the risk of storm damage in the study area. Potential coastal storm risk management measures were identified, evaluated, and compared through an iterative planning process. The Tentatively Selected Plan (TSP) consists of elevating or floodproofing a total of 533 structures within the study area (Figure 2). The proposed project includes elevating the first floors of 323 structures which will be elevated to a height corresponding to the Federal Emergency Management Agency designated Base Flood Elevation, ranging from +11' North Atlantic Vertical Datum of 1988 (NAVD88) to +17' NAVD88, plus 1' in accordance with Rhode Island state building code. In addition, 210 non-residential structures will be floodproofed. These structures are highly susceptible to coastal flooding damage, but do not lend themselves to elevation (concrete, brick, or metal structures).

Elevation of individual structures will rely on conventional residential construction methods. First, existing foundations for the participating homes will be demolished and temporary utility connections put into place to allow occupants to remain in the structure throughout construction. The structures will then be elevated using lifting jacks and supported on temporary cribbing while a new foundation is constructed. Those structures located in the AE-zone of the floodplain will be provided with a new concrete wall foundation. Those in the VE-zone or Coastal A zone will be placed on new concrete

piers. Once ready, the structures will then be lowered onto the new foundations and the permanent utility connections made.

To aid in your review, the Draft Rhode Island Coastline CSR project was released for public review on February XX, 2022. The report may be accessed in its entirety on the following website: **TO BE ADDED.**

A summary of the proposal relative to Section 300.14, Maintenance of Structures, of the State of Rhode Island Coastal Resources Management Program is presented below.

- ♦ There is a demonstrated need for coastal resiliency measures to be implemented in coastal Rhode Island. Many prior reports, as listed in the Draft Rhode Island Coastline CSR project report, document coastal storm damage along coastal Rhode Island. Approximately 12,000 residential and commercial properties in the study area are all vulnerable to inundation from coastal storms, and more than 650,000 people currently reside within the boundaries of the project.
- ♦ All necessary approvals and environmental requirements will be obtained/satisfied prior to commencement of construction activities. Applicable environmental and public interest factors have been considered in the Rhode Island Coastline CSR project planning process. The assessment includes appropriate special conditions designed to minimize any potential detrimental environmental impacts.
- ♦ Appropriate erosion control measures will be used during construction. There will be no in-water work and as such, a Water Quality Certification is not required. No impacts to water quality or finfish are anticipated.
- ♦ There will be an increase in construction equipment and vehicles in the project area over the short-term. However, this is not expected to impact recreational activities as construction activities will be limited to individual house lots. The long-term impacts of the proposed action will be positive due to a reduction in future storm damage to existing properties.
- ♦ No negative scenic impacts other than the presence of construction equipment and vehicles in the area would occur as a result of this house elevation project.
- ♦ For the communities included in the TSP, additional research is required to identify known archaeological sites and determine historic and archaeological sensitivity. This research and assessment will continue through the remainder of the study and particularly during the Pre-Construction Engineering and Design phase when further identification, assessment, and evaluation will take place in coordination with the Rhode Island State Historic Preservation

Officer, the Narragansett Indian Tribal Historic Preservation Officer, and consulting parties in accordance with Section 106 of the National Historic Preservation Act, as amended. Because USACE cannot fully determine how the project may affect historic properties prior to finalization of this feasibility study, a Programmatic Agreement (PA) (36 CFR 800.14(b)(3)) will be prepared that will outline the process to identify and evaluate historic properties and avoid, minimize, and where possible, mitigate for any adverse impacts in accordance with Section 106 of the NHPA and implementing regulations 36 CFR 800. The PA will allow the USACE to complete the necessary historic and archaeological surveys during the follow-on PED phase of the project, once the nonstructural measures and identified properties have been confirmed.

This CZM consistency determination includes an evaluation of all applicable Rhode Island Coastal Management Program policies and the Rhode Island's Salt Pond Region Special Area Management Plan (SAMP). The SAMP is part of the Rhode Island Coastal Resources Management Council's (CRMC) ongoing responsibility under both the Rhode Island General Laws 46-23 and the Coastal Zone Management Act (CZMA) (16 U.S.C. §§ 1451-1464).

We have determined that the Rhode Island Coastline CSRM project complies with the enforceable policies of the federally approved Rhode Island coastal management program and will be conducted in a manner consistent with such policies. We request your concurrence with our determination that the project is consistent to the maximum extent practicable as specified in 15 CFR § 930.32. If you have any questions, or need additional information, please contact the project biologist, Grace Moses by email at C.Grace.Moses@usace.army.mil or by phone at (978) 318-8717 or the project manager, Janet Cote, by email at Janet.Cote@usace.army.mil or by phone at (978) 318-8728.

Sincerely,

John R. Kennelly
Chief, Planning Division

Enclosures

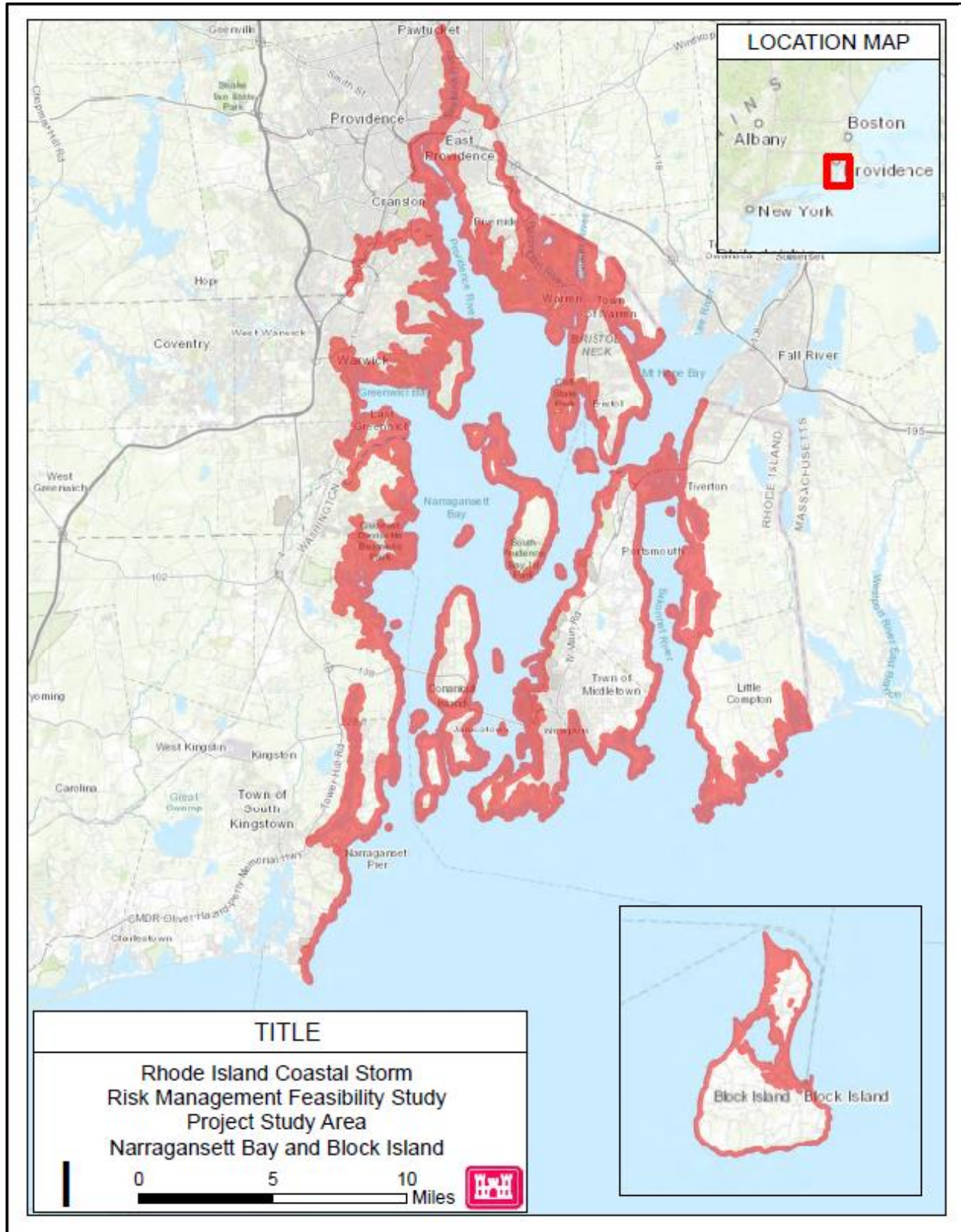


Figure 1 – Rhode Island Coastline CSRM Study Area

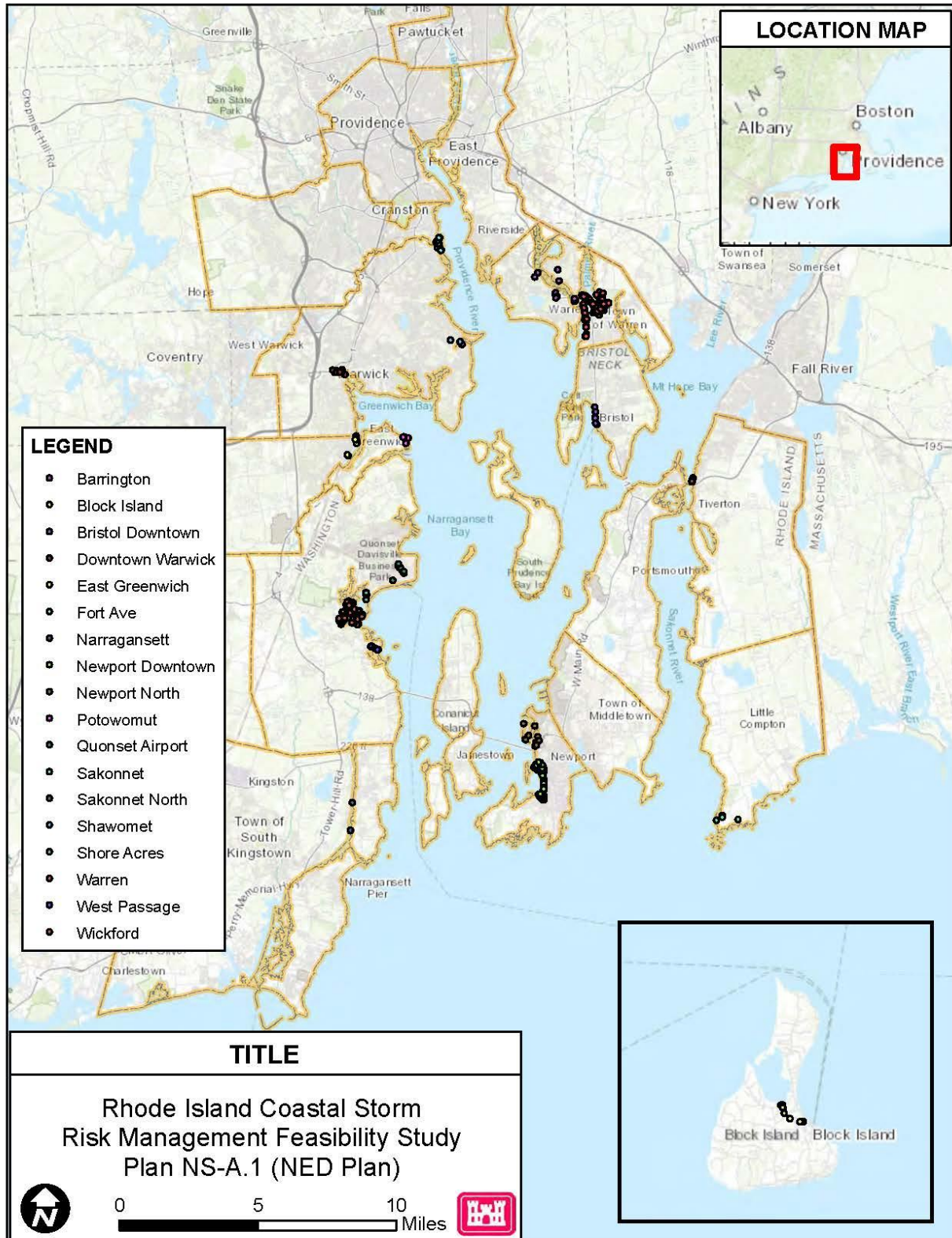


Figure 2 –TSP Elevation and Floodproofing Locations

APPENDIX A2

National Historic Preservation Act Section 106 Draft Programmatic Agreement

PROGRAMMATIC AGREEMENT AMONG THE UNITED STATES ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT AND THE RHODE ISLAND STATE HISTORIC PRESERVATION OFFICER REGARDING THE RHODE ISLAND COASTLINE, COASTAL STORM RISK MANAGEMENT PROJECT IN BARRINGTON, BRISTOL, CRANSTON, EAST GREENWICH, LITTLE COMPTON, NARRAGANSETT, NEWPORT, NEW SHOREHAM, NORTH KINGSTOWN, TIVERTON, WARREN, AND WARWICK, RHODE ISLAND

WHEREAS, the U.S. Army Corps of Engineers (USACE), New England District and the Rhode Island Coastal Resource Management Council (RI CRMC) (Sponsor) began design and implementation measures to reduce storm risk in twelve communities of the RI coastline, an undertaking known as the RI Coastline, Coastal Storm Risk Management Project (Project); and

WHEREAS, the USACE has drafted a Draft Integrated Feasibility Report & Environmental Assessment (DIFR/EA) that has identified the Tentatively Selected Plan (TSP) plan that includes non-structural measures for 519 total structures, such as building elevation and flood proofing, all of which may result in effects on properties listed in or eligible for listing in the National Register of Historic Places (NRHP); and

WHEREAS, USACE conducted background research with resources including the RI State Historic Preservation Office's (SHPO) Geographic Information System (GIS) site databases, online resources including the National Register of Historic Places (NRHP) database, and RI SHPO local town histories and other resources available on their website. NRHP-listed properties either within or in the vicinity of the Area of Potential Effect (APE) include, but are not limited to, historic districts and properties in all twelve communities, most notably the Brick Market National Historic Landmark, Newport National Historic Landmark District, and the Ocean Drive National Historic Landmark District, all in Newport; the Great Salt Pond Archaeological District and the Old Harbor Historic District, both in New Shoreham (Block Island); as well as historic districts in Barrington, Bristol, Cranston, East Greenwich, Newport, North Kingstown, Warren, and Warwick. This does not include individual historic properties of significance including archaeological, architectural, historic, and underwater submerged sites and shipwrecks.

WHEREAS, although no recorded archaeological sites within the APE were noted, archaeological potential was evaluated through a desk review and preliminary walkover surveys of project alternatives. Depending on the alternatives, impacts to archaeological or historic properties are possible in undisturbed areas where structural measures are proposed such as levees, floodwalls, channel improvements, and road or bridge crossing redesigns. Non-structural alternatives such as elevation, relocation and flood proofing could also impact archaeological resources.

WHEREAS, the USACE has consulted with the Rhode Island State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) (Section 106) and regulations implementing the National Environmental Policy Act (NEPA); and

WHEREAS, the USACE, in consultation with the SHPO, has established the Project's direct APE as the areas where non-structural measures are applied to historic properties as defined in 36 CFR § 800.16(l) (as shown in Attachment A) and the visual APE as the area within which there may be historic properties within the view shed of non-structural measures; and

WHEREAS, the USACE has determined that the Project constitutes an undertaking, as defined in 36 C.F.R. § 800.16(y), and therefore, is subject to Section 106 of the National Historic Preservation Act (NHPA) of 1966 (Section 106 of the NHPA), 54 U.S.C. § 306108; and

WHEREAS, the USACE has determined that use of this agreement is a component of the NEPA process as defined by 40 CFR § 1508.21; and

WHEREAS, due to the Project's milestones and schedule, the USACE cannot conduct the necessary surveys to identify and evaluate historic properties and determine effects of the Project prior to completing the DIFREA; and

WHEREAS, the preliminary APE will be refined in the Project Engineering and Design (PED) phase of the Project, which, along with Project construction, may be implemented in phases as funding and construction authority are provided; and

WHEREAS, as a result, efforts to identify and evaluate historic properties and the determination of effects from Project features and related consultation may be conducted over a period of multiple years when a design for each project phase and/or feature are known; and

WHEREAS, the Project will be constructed on property that is currently owned, or for which appropriate real estate interests will be acquired, by the future Sponsor(s) prior to construction; and

WHEREAS, the USACE determined that the Project does not occur on or have the potential to affect historic properties on federally recognized tribal lands; and

WHEREAS, the USACE will consult with the Narragansett Indian Tribe, the Federally-recognized Indian Tribe whose ancestral lands and area of interest are located within the APE, and requested its participation as a Concurring Party; and

WHEREAS, the USACE will contact the historical societies or commissions of each of the twelve communities in the study area to request their participation. In the event that this study or portions of this study are designed and implemented in the future by others, USACE will continue to coordinate with the above organizations on specific projects and features and request their participation in this Agreement; and

WHEREAS, historic property surveys have not been conducted within the Project's direct APE,

as shown in Attachment A, and historic properties listed in or eligible for listing in the NRHP are within and/or adjacent to the Project's direct APE; and

WHEREAS the USACE, in consultation with the SHPO and other Interested Parties pursuant Section 106 of the NHPA, has determined that the Project has the potential to cause adverse effects to historic properties, which may be listed or eligible for listing in the NRHP; and

WHEREAS, 36 CFR § 800.14(b)(1)[ii] allows federal agencies to fulfill their obligations under Section 106 through the development and implementation of Programmatic Agreements when effects on historic properties cannot be determined prior to approval of an undertaking; and

WHEREAS, in accordance with 36 CFR § 800.2(c)(4), the USACE has invited the Sponsor to consult on and sign this Agreement as a Signatory Party; in the event that there is a different Sponsor(s) in later phases of this study, they too will be invited to review and sign the Agreement as a concurring party; and

WHEREAS, any future Sponsor(s) involved in the implementation of this project and as part of normal non-Federal sponsor cost-shared responsibilities, would be required to abide by this Agreement, which would be updated to reflect their involvement, with notice provided to SHPO and concurring parties; and

WHEREAS, the USACE, with the concurrence of SHPO, shall comply with Section 106 of the NHPA for the undertaking, including all project phases and/or features, through the execution and implementation of this Agreement, following 36 CFR § 800.14(b); and

WHEREAS, in accordance with 36 CFR § 800.14(b), the USACE will notify the Advisory Council on Historic Preservation (ACHP) of its intention to develop this programmatic agreement), pursuant to 36 CFR § 800.14(b)(1)(ii) and determine its involvement in the consultation; and

WHEREAS, in accordance with 36 CFR § 800.2(d) & 40 CFR § 1503, USACE will solicit public comment on the Project during concurrent reviews and through a public meeting to be held after publication of the draft DIFREA; and

NOW, THEREFORE, the USACE and the RI SHPO agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS

The USACE shall ensure that the following measures are carried out consistent with this Agreement:

I. TIME FRAMES AND REVIEW PROCEDURES

For all final documents and deliverables produced in compliance with this Agreement, the USACE shall provide electronic submittal of documents to the Parties for review. If the Parties agree, draft documents may be sent electronically for formal review and for communications amongst themselves for activities in support of this Agreement. Any written comments provided by the Parties within 30 calendar days from the date of receipt shall be considered in the revision of the document or deliverable. The USACE shall document and report the written comments received for the document or deliverable and how comments were addressed. The USACE shall provide a revised final document or deliverable to the Parties. The Parties shall have 30 calendar days to respond. Failure of the Parties to respond within 30 calendar days of receipt of any document or deliverable shall not preclude the USACE from moving to the next step in this Agreement. A copy of the final document shall be provided to the Parties subject to the limitations in Stipulation VIII (Confidentiality).

II. AREA OF POTENTIAL EFFECTS

A. Determination of the Preliminary Area of Potential Effects (APE). The preliminary APE for the Project was determined by the USACE in consultation with the Parties. During the Rhode Island Coastline, Coastal Storm Risk Management Study, the USACE screened multiple alternatives to select the least costly plan that reasonably maximized environmental benefits and protections for the Project. The preliminary APE is comprised of the Tentatively Selected Plan includes non-structural measures including flood proofing and elevation of 519 structures as depicted on maps in Attachment A to this Agreement. Design and construction of the Project may occur in phases during which various components of the Project shall be funded for development separately. The USACE shall continue to refine and consult on the development of each phase of the Project, and consult with the Parties on the APE for each Project feature during PED.

B. The USACE has determined that the Tentatively Selected Plan will potentially have an adverse effect on historic properties.

C. If the USACE revises the APE or an individual component of the APE, the USACE shall consult with the Parties on that revision in accordance with Stipulation I (Timeframes and Review Procedures). The USACE shall determine the potential for Project activities to affect historic properties in a revised APE in consultation with the Parties pursuant to 36 CFR §§ 800.3 - 800.5. The USACE will inform the Parties of the final APE regardless of changes for each project feature or component. If the USACE determines that changes to the APE will result in adverse direct, indirect, or cumulative affects to historic properties, the USACE shall consult on this finding of effect in accordance with Stipulation I (Timeframes and Review Procedures). Revisions to the APE will not necessitate amendments to this Agreement.

III. TREATMENT OF HISTORIC PROPERTIES

A. IDENTIFICATION AND EVALUATION

The USACE shall complete additional identification and evaluation of historic properties as early as practical, following completion of the Feasibility Study and as funding for Project Engineering and Design becomes available, to assist in the avoidance and minimization of historic properties well in advance of project construction. The project archaeologist will begin consultation with the Parties regarding final design timeframes, cultural resources surveys, and potential construction schedules within six (6) months of receiving funding at the New England District level. If the Project is funded and completed by individual or multiple town(s), the USACE will consult with the Parties and individual town on the manner in which the USACE proposes to order the identification and evaluation of historic properties and make subsequent determination of effects.

1. Identification of historic properties. An inventory of properties within the final APE, agreed to under Stipulation II, consistent with the Secretary of Interior's (SOI's) Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716–44740) will be initiated for each project phase or feature as design details become available. The USACE shall submit research designs for proposed surveys including areas excluded from survey due to previous ground disturbance to Consulting Parties for review and comment consistent with Stipulation I (Timeframes and Review Procedures).

a. All cultural resources surveys and associated reporting for archaeological investigations will comply with all applicable guidelines and requirements specified in the *Performance Standards and Guidelines for Archaeology in Rhode Island* revised in June 2021 and available on the SHPO website or by request. Survey recordation shall include features, isolates, and re-recordation of previously recorded sites, as necessary. The survey shall ensure that historic properties such as structures and buildings, engineering features, landscapes, viewsheds, and traditional cultural properties (TCPs), are recorded, in addition to archaeological sites. Recordation of historic structures, buildings, objects, and sites shall be prepared using the appropriate RI SHPO Site File forms for archaeological, architectural, and building/historic district inventory as appropriate.

b. Cultural resources surveys will include all areas that may be impacted by proposed project activities. The USACE may request and consult on areas of recent ground disturbance that can be documented to be excluded from surveys during the Party review of the survey research design.

c. The USACE shall submit identification and evaluation reports to the Parties for review and comment consistent with Stipulation I (Timeframes and Review Procedures).

2. Determinations of Eligibility. The USACE shall determine NHRP eligibility based on identification and evaluation efforts and consult with the Parties regarding these determinations. Should any the Party(s) disagree in writing to the USACE findings of NRHP eligibility within a final document or deliverable, the USACE will immediately notify all the Parties of the objection and proceed to consult with the objecting Party for a period of time, not to exceed 30 calendar days, to resolve the objection. Should the objecting Party(s) and the USACE be unable to agree on the issues to which the Party(s) has objected, the USACE shall proceed in accordance with Stipulation VIII (Dispute Resolution); or

a. Through mutual agreement of the Signatories, elect to consult further with the objecting Party(s) until the objection is resolved, or dispute resolution is exercised through the process set forth in Stipulation VIII (Dispute Resolution); or

b. Treat the property as eligible for the National Register; or

c. Obtain a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination will be final in accordance with 36 CFR § 63.4.

B. DETERMINATION OF EFFECTS

The USACE may implement the Project in a phased approach by town if new, future or additional Sponsors are identified, funding is appropriated, and construction authority is provided, and, as a result, multiple identification surveys, historic property evaluations, and determinations of effects may result for each of the twelve communities currently included in the study. The USACE reserves the right to make separate determinations of effect for each community, with the understanding that cumulative effects will be considered in each case. The USACE will inform the Parties during identification and evaluation efforts if separate determinations of effect are necessary. As necessary, the USACE will hold face-to-face/virtual consultations and provide technical expertise to assist the Parties review the results of the cultural resource investigations, modifications to the APE, determination of effects, engineering details, and hydrological impacts of the Project or Project phase(s). If the USACE determines that changes to the APE will result in adverse direct, indirect, or cumulative effects to historic properties, the USACE shall consult on this finding of effect in accordance with Stipulation II.C.

1. Findings of No Historic Properties Affected.

a. Basis for Finding. The USACE shall make findings of “no historic properties affected” for each project phase or feature under the following circumstances:

- i. If no historic properties are present in the APE; or
- ii. The project phase or feature shall avoid effects to historic properties (including cumulative effects).

b. The USACE shall notify the Parties of each finding and provide supporting documentation in accordance with 36 CFR § 800.11(d). Unless a Party(s) objects to a finding within 30 days, the Section 106 of the NHPA review of the specific project phase or feature will have concluded.

c. If a Party(s) objects within 30 days to a finding of “no historic properties affected,” the USACE shall consult with the objecting Party(s) to resolve the disagreement.

- i. If the objection is resolved, the USACE either may proceed with the specific Project phase or feature in accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to 36 CFR § 800.5(a)(1).
- ii. If the USACE is unable to resolve the disagreement, it will forward the finding and supporting documentation to ACHP and request that ACHP review the USACE’s finding in accordance with the process described in Section VIII (Dispute Resolution). The USACE shall prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP’s opinion and provide this to the Parties. If the USACE final determination is to reaffirm its “no historic properties affected” finding, the Section 106 review of the specific Project phase or feature will have concluded. If the USACE revises its finding, then it shall proceed to Stipulation III.B.2 or Stipulation III.B.3 (below).

2. Findings of No Adverse Effect.

If the USACE determines that a specific project phase or feature will have an effect on historic properties but that the effect does not meet the adverse effect criteria, the USACE shall propose a finding of “no adverse effect” and consult with the Parties in accordance with 36 CFR § 800.5(b) and following steps a-c below.

a. The USACE shall notify all the Parties of its finding(s); describe any Project specific conditions and/or modifications required to the project phase or feature to avoid or minimize effects to historic properties; and provide supporting documentation pursuant to 36 CFR § 800.11(e).

b. Unless a Party(s) objects within 30 days, the USACE will proceed with its “no adverse effect” determination and conclude the Section 106 of the NHPA review.

c. If a Party(s) objects within 30 days to a finding of “no adverse effect,” the USACE will consult with the objecting Party(s) to resolve the disagreement.

i. If the objection is resolved, the USACE shall proceed with the project phase or feature in accordance with the resolution; or

ii. If the objection cannot be resolved, the USACE shall request that ACHP review the findings in accordance with 36 CFR § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. The USACE shall, pursuant to 36 CFR § 800.5(c)(3)(ii)(B), prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP’s opinion, and provide this to the Consulting Parties. If the USACE’s final determination is to reaffirm its “no adverse effect” finding, the Section 106 of the NHPA review of the specific Project phase or feature will have concluded. If the USACE will revise its finding, then it shall proceed to Stipulation III.B.3 below.

3. Avoidance and Minimization of Adverse Effects

Avoidance of adverse effects to historic properties is the preferred treatment approach. The USACE will consider redesign of elements of the project phase or feature in order to avoid and/or minimize Project effects to historic properties that may be adverse. If the USACE determines that the project phase or feature cannot be modified to avoid or minimize adverse effects, the USACE will make a determination of “adverse effect.”

4. Determination of Adverse Effects

If the USACE determines that a specific project phase or feature may adversely affect a historic property, it shall notify the Parties of the determination, document why the effect cannot be avoided, outline the alternatives considered to avoid and to minimize adverse effects, and consult to resolve the effects as outlined in Section III.C Historic Properties Treatment Plan.

C. HISTORIC PROPERTIES TREATMENT PLAN

If the USACE determines that Project activities will result in adverse effects to historic properties,

the USACE, in coordination with the Parties, shall develop a Historic Properties Treatment Plan (HPTP) to resolve adverse effects resulting from the Project. If necessary, a HPTP will also provide recommendations for the management of historic properties that are identified during this Project that are located within long-term routine operations and maintenance areas for the Project. A HPTP would be developed after the USACE notifies the Parties of a determination of "adverse effect" for a particular project phase or feature, but before construction of the phase or feature. With written acknowledgement by all the signatories, a HPTP would be appended to this Agreement without amending the Agreement. The use of a HPTP to resolve adverse effects resulting from the Project shall not require the execution of an individual Memorandum of Agreement or Programmatic Agreement.

A HPTP shall identify the historic properties including any TCPs, located within the APE. A HPTP shall only apply to historic properties that have been evaluated for eligibility for inclusion or listed in the NRHP. A HPTP shall outline the minimization and mitigation measures necessary to resolve the adverse effects to historic properties. Proposed mitigation measures may include, but are not limited to, historic markers, wayfinding signage, interpretive brochures, data recovery, publications, and other forms of appropriate mitigation. Development of appropriate measures shall include consideration of historic property types and provisions for avoidance or protection of historic properties where possible. The HPTP shall include a general schedule of work for each Project phase or feature, and provide a schedule of key Project milestones, and decision points to discuss opportunities for Project modification(s) with the Parties.

A HPTP shall define the process and conditions under which archaeological site monitoring is appropriate. A HPTP will outline the curation process and storage criteria for all artifacts and data recovered from historic properties listed in this document. A HPTP will detail the means and methods of public outreach and dissemination of the results of data recovery excavations to the public, as appropriate. Where possible, and when agreed upon by the Parties (including the RI State Archaeologist), the USACE shall avoid excavation of known burial locations and utilize creative or non-traditional means to mitigate adverse impacts to burial sites if they cannot be avoided. In consultation with the RI State Archaeologist, a HPTP will confirm the process for managing discovery of human remains per the procedures outlined in the *Performance Standards and Guidelines for Archaeology in Rhode Island* referenced above and the regulations for Post-review Discoveries of the Advisory Council's regulations at 36 CFR 800.13.

1. Review. The USACE shall submit a draft HPTP to the Parties for review and comment pursuant to Stipulation I (Timeframes and Review Procedures). Following SHPO concurrence with the HPTP, all Parties will be provided with final HPTPs that will be appended to this Agreement and implemented in a manner consistent with the procedures outlined in this Agreement.
2. Reporting. Reports and other data pertaining to the treatment of effects to historic properties will be distributed to the Parties and the public, consistent with Stipulation VII (Confidentiality) of this Agreement, unless a Party(s) indicated through consultation that it does not want to receive a report or data. Reports will be consistent with the procedures outlined in the guidelines and requirements of the RI SHPO, particularly the *Performance Standards and Guidelines for Archaeology in Rhode Island*.
3. Amendments/Addendums/Revisions. If a historic property that is not covered by an existing

HPTP is discovered within the APE subsequent to the initial inventory effort, or if there are previously unanticipated effects to a historic property, or if the Parties agree that a modification to the HPTP is necessary, the USACE shall prepare an addendum to the HPTP. The USACE shall then submit the addendum to the Parties and follow the provisions of Stipulation I (Timeframes and Review Procedures). The HPTP may cover multiple discoveries for the same property type.

4. Data Recovery. When data recovery is proposed, the USACE, in consultation with the Parties, shall ensure that specific Research Designs are developed consistent with the SOI's *Standards and Guidelines for Archaeology and Historic Preservation*, follow guidelines and requirements of the Vermont SHPO especially as specified in the *Performance Standards and Guidelines for Archaeology in Rhode Island*, and the ACHP's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" (ACHP, May 18, 1999).

5. Final Report Documenting Implementation of the HPTP. Within one year after the completion of all construction for the Project, the USACE shall submit to the Parties a Final Report documenting the results of all work prepared under the HPTP, and the information and effects documented for each of the historic properties. The USACE may extend this period through written consent of the Parties. The submittal of the Final Report shall be in accordance with Stipulation I and VII (Timeframes and Review Procedures and Confidentiality).

IV. QUALIFICATIONS

A. Professional Qualifications. All key personnel for technical work and specialized analysis (i.e. Principal Investigator, Project Manager, Senior Archaeologist, Architectural Historian, Historic Architect, and Field Director) required for historic preservation activities implemented pursuant to this Agreement shall be carried out by or under the direct supervision of a person or persons meeting, or exceeding the SOI's *Historic Preservation Professional Qualification Standards* as specified in 36 CFR Part 61 for archaeology, history, architectural history, or historic architecture as appropriate (48 FR 44739). In addition, at least one individual supervising in the field will have a graduate degree in archaeology, anthropology, or a closely related field or equivalent, and substantive experience in conducting archaeological research and fieldwork in the state of RI. This individual will have at least one year of experience or specialized training in the type of activities the individual will supervise. "Technical work" here means all efforts to inventory, evaluate, and perform subsequent treatment such as data recovery excavation or recordation of potential historic properties that is required under this Agreement. This stipulation shall not be construed to limit peer review, guidance, or editing of documents by SHPO and associated Project consultants.

B. Historic Preservation Standards. Historic preservation activities carried out pursuant to this Agreement shall meet the SOI's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740, September 29, 1983), as well as standards and guidelines for historic preservation activities established by the RI SHPO. The USACE shall ensure that all reports prepared pursuant to this Agreement will be provided to the Parties and are distributed in accordance with Stipulation VII (Confidentiality), and meet published standards of the RI SHPO, specifically, *Performance Standards and Guidelines for Archaeology in Rhode Island*.

V. INADVERTENT DISCOVERIES AND UNANTICIPATED EFFECTS

The USACE is responsible for complying with 36 CFR § 800.13(a) if historic properties are inadvertently discovered or if unanticipated adverse effects to known historic properties are made during implementation of an undertaking. When there is an inadvertent discovery or unanticipated effect, the USACE will ensure that the following stipulations are met, and that the following provisions will be included in all construction plans.

When a previously unidentified cultural resource, including but not limited to, archaeological sites, standing structures, and properties of traditional religious and cultural significance, are discovered during the execution of the undertaking, the individual(s) who made the discovery shall immediately notify USACE Project Manager (PM) and archaeologist, secure the vicinity, make a reasonable effort to avoid or minimize harm to the resource, and comply with the following:

1. All activities shall cease for this project or feature.
2. The USACE will notify the Parties by email or telephone within 48 hours of the discovery or unanticipated effect.
3. The USACE will consult with the Parties by email or telephone to determine whether additional investigations are needed to determine if the resource is a historic property or if the available information is sufficient to make such a determination.
 - a. If the USACE determines through consultation that the resource does not warrant further investigation, it will provide written notification by email to the SHPO, outlining the USACE justification and requesting the SHPO's concurrence. If no comments are received within 72 hours, construction may resume.
 - b. If the USACE determines through consultation that the site warrants further investigation, a scope of work will be developed consistent with the standards in Stipulation IV (Qualifications), B. Historic Preservation Standards.
 - i. The scope of work will be submitted to the Parties for review and comment within a time frame established in the scope of work. If no comments are received within this period, work shall be implemented in accordance with the scope. If comments are received, the USACE shall take them into account and carry out the scope of work. A report of the investigations will be completed within the time frame established by the scope of work and copies provided to all the Parties. Should any

party object to the proposed work plan or results, the USACE will proceed in accordance with Stipulation IX (Dispute Resolution).

ii. If the resources are found to be ineligible for listing in the NRHP, construction may proceed as planned.

iii. If the resources are determined to be eligible for listing in the NRHP, the USACE shall then initiate communication with the undertaking design team and the Parties to determine if alternative design or construction methods can be implemented to avoid, protect, or minimize adverse effects to the resource. If the resources cannot be avoided by construction activities, then a mitigation/treatment plan or other measures will be adopted in accordance with Stipulation III. C (Historic Properties and Treatment Plan). Undertaking activities will remain suspended until the USACE resolves the adverse effect.

VI. TREATMENT OF HUMAN REMAINS

Human remains and grave goods encountered during any Project phase or component that are located on non-federal lands will be treated in accordance with the requirements in the *Performance Standards and Guidelines for Archaeology in Rhode Island* as appropriate. No portion of this Project will be constructed on Federal lands. If it is subsequently determined that the Project will occur on Federal lands, then applicable Federal laws will apply.

A. Coordination

In the event human skeletal remains or burials are encountered during implementation of the Project, coordination under Section 106 and other applicable federal, state, and local laws, regulations, and policies as appropriate shall be completed.

B. Process

Historic and pre-contact human remains from Federal land are subject to the Native American Graves Protection and Repatriation Act (NAGPRA). As such, if human remains are discovered during construction, work in that portion of the project shall stop immediately. The Sponsor(s) (during project implementation phase) shall immediately report the discovery to local police, the Office of the Chief Medical Examiner, and RI State Archaeologist, and follow applicable state laws and procedures. The remains shall be covered and/or protected in place in such a way that minimizes further exposure of and damage to the remains, and the SHPO shall be consulted immediately. If the remains are found to be Native American, in accordance with applicable law, a treatment plan shall be developed in consultation with the SHPO and the Narragansett Indian Tribe. Any treatment and reburial plan shall be fully implemented. If the remains are not Native American,

the appropriate local authority shall be consulted to determine final disposition of the remains. Avoidance and preservation in place is the preferred option for treating human remains.

VII. PUBLIC COORDINATION AND PUBLIC NOTICE

The interested public will be invited to provide input during the implementation of this Agreement. The USACE shall carry this out through letters of notification, public meetings, environmental assessment/environmental impact statements, site visits and/or other appropriate methods. The USACE shall ensure that any comments received from members of the public are taken under consideration and incorporated where appropriate. Review periods shall be consistent with Stipulation I (Timeframes and Review Procedures). In seeking input from the interested public, locations of historic properties will be handled in accordance with Stipulation VIII (Confidentiality). In cases where the release of location information may cause harm to the historic property, this information will be withheld from the public in accordance with Section 304 of the NHPA (54 USC § 307103).

VIII. CONFIDENTIALITY

Signatories to this Agreement acknowledge that historic properties are subject to the provisions of Section 304 of the NHPA (54 USC § 307103) and 36 CFR § 800.11(c), relating to the disclosure of information about the location, character or ownership of a historic property, and will ensure that any disclosure of information under this Agreement is consistent with the terms of this Agreement and with Section 304 of the NHPA, 36 CFR § 800.11(c), and the Freedom of Information Act (5 USC § 552), as amended. Confidentiality regarding the specific nature and location of the archaeological sites and any other cultural resources discussed in this Agreement shall be maintained to the extent allowable by law. Dissemination of such information shall be limited to appropriate personnel within the USACE (including their contractors), the Signatories, Consulting Parties and those parties involved in planning, reviewing, and implementing this Agreement. When information is provided to the USACE by SHPO or others who wish to control the dissemination of that information more than described above, the USACE will make a good faith effort to do so, to the extent permissible by federal law.

IX. DISPUTE RESOLUTION

A. Should any Signatory to this Agreement object in writing to any action proposed or carried out pursuant to this Agreement, the USACE will immediately notify all the Parties of the objection and proceed to consult with the objecting Party(s) for a period of time, not to exceed 30 calendar days, to resolve the objection. If the objection is resolved through consultation, the USACE may authorize the disputed action to proceed in accordance with the terms of such resolution. If the USACE determines that such objection cannot be resolved, the USACE will:

1. Forward all documentation relevant to the dispute, including the USACE' proposed resolution, to the ACHP. The ACHP shall provide the USACE with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Parties and provide them with a copy of the written response. The USACE will then proceed according to its final agency decision.

2. If the ACHP does not provide its advice regarding the dispute within the 30 calendar-days' time period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the Parties to the Agreement and provide them and the ACHP with a copy of such written response.

3. The USACE responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

B. Objection by the Public.

At any time during implementation of the measures stipulated in this Agreement, should an objection pertaining to the Agreement be raised by a member of the public, the USACE shall notify the Parties and take the objection under consideration, consulting with the objecting Party and, should the objecting Party request, any of the Parties to this Agreement, for no longer than 15 calendar days. The USACE shall consider the objection, and in reaching its decision, will consider all comments provided by the other Parties. Within 15 calendar days following closure of the comment period, the USACE will render a decision regarding the objection and respond to the objecting Party(s). The USACE will promptly provide written notification of its decision to the other Parties, including a copy of the response to the objecting Party(s). The USACE's decision regarding resolution of the objection will be final. Following issuance of its final decision, the USACE may authorize the action that was the subject of the dispute to proceed in accordance with the terms of that decision. The USACEs' responsibility to carry out all other actions under this Agreement shall remain unchanged.

X. NOTICES

All notices, demands, requests, consents, approvals or communications from all parties to this Agreement to other parties to this Agreement shall be either personally delivered, sent by United States Mail, or electronic mail, and all Parties shall be considered in receipt of the materials five (5) calendar days after deposit in the United States mail or on the day after being sent by electronic mail.

If all the Parties agree in advance, in writing or by electronic mail, copies, or electronic versions of signed documents may be used as if they bore original signatures.

If all the Parties agree, electronic documents and/or electronic communications may be used for formal communication amongst themselves for activities in support of Stipulation I (Time Frames and Review Procedures).

XI. AMENDMENTS, TERMINATION, AND DURATION

A. Amendment. Any Signatory Party to this Agreement may propose that the Agreement be amended, whereupon the USACE shall consult with the Signatories to consider such amendment. This Agreement may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date it is signed by all Signatories.

All appendices to this Agreement, and other instruments prepared pursuant to this Agreement including, but not limited to, the maps of the APE, may be revised or updated by the USACE through consultation consistent with Stipulation I (Timeframes and Review Procedures) and agreement in writing of the Signatories without requiring amendment of this Agreement, unless the Signatories through such consultation decide otherwise. In accordance with Stipulation VII (Public Coordination and Public Notice), the Signatories and interested members of the public, will receive amendments to the Project's APE as appropriate, and copies of any amendment(s) to the Agreement.

Amended Appendices: All appendices to this Agreement, and other instruments prepared pursuant to this Agreement, may be revised or updated by the USACE through consultation consistent with the review procedures noted above and written agreement of the Signatory Parties without requiring amendment of this Agreement. In accordance with Stipulation VII (Public Coordination and Public Notice), the Signatory Parties and interested members of the public, will receive copies of any amendment(s) to the Agreement.

B. Termination. Any Signatory to this Agreement may terminate this Agreement. If any Signatory proposes termination of this Agreement, the Signatory proposing termination shall notify the other Signatories in writing, explain the reasons for proposing termination, and consult with the other Signatories to seek alternatives to termination.

1. The USACE shall consult with the Signatories for a period not to exceed 30 calendar days to resolve the termination request.

2. Should such consultation result in an agreement on an alternative to termination, the Signatories shall proceed in accordance with that agreement and amend the Agreement as required.

3. Should such consultation fail, the Signatory proposing termination may terminate this Agreement by promptly notifying the other Signatories in writing.

4. Beginning with the date of termination, the USACE shall ensure that until and unless a new agreement is executed for the actions covered by this Agreement, such Project phase and/or feature shall be reviewed individually in accordance with 36 CFR § 800.4-800.7.

C. Duration. Unless terminated prior, this Agreement shall remain in effect until such time as the legal requirements for Section 106 are completed. To ensure ongoing consultation, the USACE shall provide annual reporting, in accordance with Stipulation XIII below. Upon request, the USACE shall consult with the other Signatories and Consulting Parties to reconsider the terms of the Agreement and, if necessary, amend it in accordance with Stipulation XI. A. above.

XII. THE ANTIDEFICIENCY ACT

The USACE obligations under this Agreement are subject to the availability of appropriated funds, and the stipulation of the Agreement are subject to the provisions of the Antideficiency Act, 31 USC § 1341, et seq. The USACE shall make reasonable and good faith efforts to secure the necessary funds to implement its obligations under this Agreement. If compliance with the Antideficiency Act alters or impairs the USACE ability to implement its obligations under this Agreement, the USACE shall consult in accordance with the amendment and termination procedures found in Stipulation XI (Amendments, Terminations and Duration).

XIII. MONITORING AND REPORTING

Each year following the execution of this Agreement until it expires or is terminated, the USACE shall provide all parties to this Agreement and the ACHP a summary memorandum detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the USACE efforts to carry out the terms of this Agreement.

XIV. EFFECTIVE DATE

This Agreement shall take effect on the date that it has been fully executed by the USACE, and the SHPO.

XV. EXECUTION

Execution and the implementation of the terms of this Agreement by the USACE, and the SHPO, confirm that the USACE has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

DRAFT

SIGNATORY:

U.S. ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT

BY: _____ DATE: _____

John A. Atilano II
Colonel, U.S. Army
District Commander

DRAFT

SIGNATORY:

RHODE ISLAND STATE HISTORIC PRESERVATION OFFICER

BY: _____ DATE: _____

XXXXX

State Historic Preservation Officer

CONCURRING PARTIES:

NARRAGANSETT INDIAN TRIBE

BY: _____

DATE: _____

John Brown

Tribal Historic Preservation Officer

CONCURRING PARTIES:

TBD

BY: _____ DATE: _____

Name

Title

ATTACHMENT A

AREAS OF POTENTIAL EFFECT AND IDENTIFIED NRHP PROPERTIES

APPENDIX A3

Meeting Notes and Coordination

FINAL MEMORANDUM FOR THE RECORD

SUBJECT: Rhode Island Coastal Study: Site Visit with State of RI, USFWS, NMFS, USEPA and USACE.

LOCATION: Middle Bridge, Narragansett; and Barrington/Warren Upper and Lower Surge Barriers, Rhode Island

TIME/DATE OF SITE VISIT: 0900AM-2:00 PM January 13, 2020

ATTENDEES:

Jackie LeClair, USEPA
Tim Timmermann, USEPA
Erica Sachs, USEPA
Rachael Croy, USEPA
Zach Jylkka, NMFS
Peter Johnsen, NMFS
Alison Verkade, NMFS
Eric Schneider, DEM-RI
Patrick McGee, DEM-RI
Janet Freedman, CRMC-RI
Justin Skenyon, CRMC-RI
Suzanne Paton, USFWS
Charlie Vandemoer, USFWS
Mike Riccio, USACE
David Oster, USACE
Kevin Foster, USACE

SITE VISIT DISCUSSION/OBSERVATIONS

Middle Bridge

We all met at 0900 at a parking lot on the east bank of Middle Bridge. Note: Prior to the site visit, Mike Riccio and I toured the neighborhood upstream of the bridge. The residential community is densely populated within the low-lying flood plain area.

We kicked off the site visit with a round of introductions.

Mike Riccio generally described the project in that it is more than installing closures at the bridge. In fact, the road may be elevated or barriers would need to be installed on the ocean side of the road to mitigate floodwaters. Likewise, the road/barriers would be constructed for some distance to the east and west of the bridge in order to tie into high ground. The precise height and length of the road or barriers would be identified if this alternative is further developed.

Charlie Vandemoer indicated that eelgrass (*Zostera marina*) occurs in large areas both north and south of the bridge. Charlie also suggested that the Corps inspect the John

H. Chafee National Wildlife Refuge that exists south of Middle Bridge since these resources may be affected by flood waters as a consequence of planned construction.

Suzanne Paton highlighted the presence of the saltmarsh sharp-tailed sparrow (*Ammodramus caudacutus*) within the project area. Suzanne described the importance of the wetland habitat within the influence of the project area since it serves as nesting habitat for this species and contributes to its reproductive success. Suzanne expressed concern that nests and chicks may be lost, possibly due to flooding if the barrier is constructed at Middle Bridge. Suzanne also indicated that the Service may list this species in the future.

Eric Schneider indicated that it is feasible that Atlantic Sturgeon and Shortnose Sturgeon may occur within the project area. Kevin will work with Eric to better understand how important the Narrow river is to both species.

Erica Sachs and Suzanne both suggested that the Corps consider constructing the flood barrier at the Sprague Bridge (Route 1A overpass), rather than Middle Bridge, in order to better protect the Chafee NWR and other affected resources.

Tim Timmermann expressed concern that the Middle Bridge alternative should be given consideration for an EIS, as opposed to an EA, to ensure adequate analyses are conducted to protect the human community as well as natural resources. Tim also suggested that it may be appropriate to undertake a Programmatic EIS that would cover all Corps project alternatives for this study. Tim indicated he would provide a letter from USEPA and would be available to meet with the Corps to further discuss NEPA for this project.

Alison Verkade of NOAA raised concerns about the impacts of a closure structure on wetlands and migratory fish. She stated that in the absence of robust climate change modeling and O&M plans/accountability measures they have to consider all impacts upstream of the closure structure or barrier as a potential loss, related to increased frequencies of closures with SLR and increased high intensity storms. Alison referred to Oak Island in Revere, where she said that structure is closed frequently.

Janet Freedman wanted to know more about how the Corps will assess sea level rise (SLR) in terms of the costs and benefits of this project. Janet expressed concern about extreme SLR scenarios and the overall benefits of a fixed structure, given current SLR estimates.

Mike Riccio indicated that the costs and benefits are evaluated over a 50-year period.

Erica and Janet both expressed public involvement should be increased to help address local concerns early. Mike R. stated that a meeting was held last year with the municipalities and there will be further public outreach as more USACE develops more information and has a better understanding of the feasibility of certain alternatives.

Barrington/Warren Upper Surge Barriers

Suzanne indicated that a variety of bird species occupy the wetlands upstream of the upper barrier proposed site, including the saltmarsh sparrow.

Barrington/Warren Lower Surge Barrier

Suzanne, Zach and Alison expressed concern about how the SMART planning process will allow sufficient time to undertake ESA and EFH consultations. A variety of federally listed and protected species (Endangered Species Act and the Magnusson-Stevens Fishery Conservation and Management Act), under the jurisdiction of the Fish and Wildlife Service (ESA) and the National Marine Fisheries Service (ESA and MSFCMA) occur within the various project alternative areas.

Zach indicated that the Corp's project alternatives will need to be fully described, including an analysis of project-related effects, before consultation may begin.

CONCLUSION AND FOLLOWUP ITEMS:

Follow-up items:

- a) Everyone expressed an interest in keeping the conversation going so that all agencies have an opportunity to provide comments and help the Corps develop the best project alternatives. Please provide us with your thoughts on how we may best be able to communicate with you and your agency. Emails, regular meetings, teleconferences, additional site visits, please let us know.
- b) Set up monthly teleconference calls to share project-related information, express concerns, discuss status of consultations/permits etc.
- c) USACE develop a schedule, including NEPA documents and state and federal consultations/permits and share with the group.

Kevin Foster and David Oster
Environmental Branch
New England District
Corps of Engineers

ATTACHMENTS
WRITTEN COMMENTS RECEIVED

U.S. Fish and Wildlife Service
Charley Vandemoer
Refuge Manager
John H. Chafee National Wildlife Refuge
January 23, 2020

The following Issues and Concerns related to the proposed ACOE hurricane barrier at Middlebridge are provided to address the John H. Chafee National Wildlife Refuge only. These comments do not address issues or concerns from other divisions within the U.S. Fish and Wildlife Service (Service), and specifically do not address any Endangered Species Act consultation needs. These issues and concerns are submitted consistent with the Fish and Wildlife Coordination Act.

Issues and Concerns

How will the project impact trust species of high conservation concern (such as salt marsh sparrow, alewife run) and locally endemic plant communities (fens).

Saltmarsh sparrows are a species of high conservation concern. An estimated 80% of the population has disappeared in just the last 15 years, with an annual observed rate of decline of 9% per year. This species only nest within high marsh habitats, and their nests are susceptible to flooding, particularly if the frequency or duration exceeds normal tide cycle flooding events. On average, nest count data suggests an average of 30 active nests occur in the marshes downstream of the project area. We suspect additional nests are present upstream of the project area, but nest surveys have not been conducted there.

How will road raising or construction of a barrier on eastern shore effect movement of animals (amphibians, reptiles, etc.) between and among freshwater and tidal wetlands?

Wildlife species populations associated with freshwater and tidal marsh habitats occur on both sides of middlebridge road, with interchange of individuals above and below middlebridge road occurring. How would construction of a barrier influence the interchange of individuals in these populations?

What is the feasibility of raising the road along the eastern shore of the project area?

We understand the approach on the eastern shoreline to the new bridge and structure would need to be raised by approximately seven feet. Assuming the right of way is 50 feet wide, there is not enough room within the ROW to raise

the road seven feet while maintaining 3:1 side slopes and travel lanes totaling 18 feet. Since adjacent lands are managed by the U.S. Fish and Wildlife Service as the John H. Chafee National Wildlife Refuge, it is unlikely the ROW could be widened, as road construction or barrier construction on the national wildlife refuge would likely be incompatible with the purposes for which the refuge was established, and therefore denied.

How will road raising or construction of a barrier on the eastern shore effect recreational uses and visitor safety on the existing right of way?

Summer vehicular and pedestrian traffic along this relatively narrow stretch of road is high during the summer months. Raising the road (see previous comment) with narrower toe slopes could force more pedestrians onto the road surface, or limit escape routes off the road for pedestrians.

How will access to the refuge administrative parking area on eastern shore be maintained?

The Service maintains an administrative parking area just east of the town's Middlebridge property used by field crews during the warmer seasons. Raising the road would likely eliminate access to this parking area and hamper management of the National Wildlife Refuge.

How will the project effect water levels on tidal marshes upstream and downstream of the proposed barrier?

Using the tidal gate during king tides or during storm events would, assumedly not only block higher levels of water from accessing the upstream areas, but would also result in preventing freshwater inputs upstream from exiting the river. In storm induced higher tides where freshwater inputs would increase, this could lead to not only flooding of the marsh surface during the storm, but also after the storm when river water above the structure is released downstream. In essence would operation of the flood gate result in a longer duration of tidal marsh flooding? How would the hydrology of the marshes (a) below, and (b) above the structure be impacted? Would the release of flood flows accumulated upstream of the gate result in greater erosion of saltmarsh shorelines downstream of the structure when water is released?

How will construction and operation of the facility impact the efficacy of recent federal investments in ongoing saltmarsh restoration and resiliency efforts within and outside the project area?

The Service, in collaboration with a number of federal agencies, state agencies, local municipalities, and non-profit conservation organizations have completed a \$3.5 million restoration of saltmarsh habitats in the Narrow River estuary above and below the project site. The objectives were to enhance elevations to abate sea level rise, improve saltmarsh surface drainage, enhance eelgrass habitat, create shorebird habitat, and the abundance of cool water refugia in the estuary for marine fish.

How will construction of the barrier influence the presence of cool water refugia for marine fish?

One of the deepest pools in the estuary occurs underneath the current bridge. Will construction of the tide gate create shallower depths underneath Middlebridge, creating a loss in cool water refugia?

Will this project be consistent with the Coastal Barrier Resource Act (16 U.S.C. § 3501 et seq; 12 U.S.C. § 1441 et seq) ?

The project area is within/on the boundary of CBRA unit RI-10. This Act prohibits most federal expenditures that encourage development or modification of coastal barriers. Consultation will likely be needed.

How will the project alter aesthetics of the area?

The Middlebridge area has been referred to as "the Gateway to Narragansett" by some. Construction of a wall along the road will likely diminish the aesthetic quality of the area.

How will construction and operation of the barrier impact eelgrass beds and other estuarine habitat components?

An eelgrass bed is present both upstream and downstream of the project site.

How will the new bridge and accompanying floodgates impact motorized and non-motorized boat traffic and potential erosional impacts on tidal marsh shorelines?

There is a substantial amount of boat traffic passing underneath the current bridge including a mix of smaller motorized vessels, kayaks, canoes, and rowboats. How will this structure impact these uses? The current height of the bridge openings limits uses to smaller vessels. If the height of the structure above the waterline is increased, will larger vessels be able to pass? This would have ramifications to the level of impacts on saltmarsh shorelines from wake-induced erosion.



Figure 1. Middle Bridge alternative and John H. Chafee National Wildlife Refuge.

Tim Timmermann
Director, Environmental Review
U.S. Environmental Protection Agency

Here is a link to a helpful CEQ guidance regarding programmatic NEPA reviews. You are correct that the terms "tiered" and "programmatic" are often interchanged and I think the guidance speaks to that as well. I would be more than willing to meet. I also hope to send you a couple of quick thoughts in the next few days for your consideration (basically a recap of our discussions in the field the other day) as you work to decide how you are going to approach the project review under NEPA. https://ceq.doe.gov/docs/ceq-regulations-andguidance/Effective_Use_of_Programmatic_NEPA_Reviews_Final_Dec2014_searchable.pdf

From: [Moses, Catherine G CIV USARMY CENAE \(US\)](#)
To: [Riccio, Michael S CIV USARMY CENAE \(US\)](#); [Oster, David A CIV USARMY CENAE \(USA\)](#); [Charlie Vandemoer; Paton, Suzanne; Alison Verkade - NOAA Affiliate; Zachary Jylkka - NOAA Federal; Sachs, Erica; Timmermann, Timothy; LeClair, Jacqueline; Lyons, Regina; Schneider, Eric \(DEM; McGee, Patrick \(DEM; ifreedman@crmc.ri.gov; iskenyon@crmc.ri.gov; Croy, Rachel; Corsair, Cynthia L](#)
Cc: [Cote, Janet CIV CEHQ NCR2 \(USA\)](#)
Subject: Rhode Island Coastal Feasibility Study
Start: Thursday, January 21, 2021 2:00:00 PM
End: Thursday, January 21, 2021 3:30:00 PM
Location: WebEx

Hello everyone,

I hope you are all having a nice holiday season. This meeting is to discuss the status of the Rhode Island Coastal Storm Risk Management Feasibility Study which was restarted late this Fall. Since you haven't seen anything on this in about a year, we'll reintroduce the project with an overview of the study areas, alternatives, and the project's schedule. We'd like to make these meetings monthly to ensure we're capturing your input throughout the process, so please be prepared to identify ideal days and times for a standing meeting.

Thank you,

Grace Moses

Biologist

U.S. Army Corps of Engineers

New England District

978-318-8717

WebEx Information:

Meeting link: <https://usace1.webex.com/usace1/j.php?MTID=m11086630b49e0e27ec2a3615e5d8595b>

Meeting number: 199 048 0928

Password: EmPqZpx*362

Join by phone

+1-844-800-2712 US Toll Free

+1-669-234-1177 US Toll

Access code: 199 048 0928

January 29, 2021

MEMORANDUM FOR THE RECORD

SUBJECT: Rhode Island Coastal GI Resource Agency Meeting (January Meeting)

LOCATION: WebEx Meeting

DATE OF MEETING: January 21, 2021

PREPARER: Grace Moses, USACE

ATTENDEES:

Mike Riccio, USACE
Grace Moses, USACE,
Dave Oster, USACE
Kate Atwood, USACE
Jackie LeClair, EPA
Tim Timmermann, EPA
Erica Sachs Lambert, EPA
Rachel Croy, EPA

Eric Schneider, RIDEM
Patrick McGee, RIDEM
Janet Freedman, CRMC
Justin Skenyon, CRMC
Maggie Sager, NMFS
Roosevelt Mesa, NMFS
Alison Verkade, NMFS
Jeff Emidy, SHPO

REPORT:

- The meeting purpose was to re-engage resource agencies on the subject study which restarted in October 2020 after a funding lapse.
- We (USACE) presented the current alternatives under consideration in each of the study areas. We also discussed the current schedule which is to have the Tentatively Selected Plan (TSP) milestone complete in late July 2021.
- We scheduled monthly resource agency meetings focused on the project for every third Thursday at 2pm through the TSP to ensure a collaborative process.

CONCLUSION AND FOLLOW-UP ITEMS:

- The next meeting will be held on February 18, 2021.
- At the next meeting (February), we will present the benefit-cost ratios for the Narrow River and Warren/Barrington River upper and lower river closure structures.
- We will provide proof of concept designs for any proposed structures by the end of February/early March or as soon as available.

*Participants will review a draft of these notes with updates made as necessary.

February 18, 2021

MEMORANDUM FOR THE RECORD

SUBJECT: Rhode Island Coastal GI Resource Agency Meeting (February Meeting)

LOCATION: WebEx Meeting

DATE OF MEETING: February 18, 2021

PREPARER: Grace Moses, USACE

ATTENDEES:

Mike Riccio, USACE
Grace Moses, USACE,
Dave Oster, USACE
Kate Atwood, USACE
Tim Timmermann, EPA

Erica Sachs Lambert, EPA
Eric Schneider, RIDEM
Charlie Vandemoer, USFWS
Maggie Sager, NMFS
Roosevelt Mesa, NMFS

REPORT:

- Preliminary BCR's currently do not support closure structures in the Barrington/Warren area or along Middle bridge in Narragansett (BCR's<1).
- The design team is exploring options for a closure structure at Sprague bridge in Narragansett. More will be presented at the next meeting, if viable.
- Three floodwall alignments along Wellington Ave. in Newport are being designed. Drawings will be available in early March with BCR's to follow in late March.
- No update on Providence structural alternatives. Likely available in April.
- TSP on track for late July 2021.

CONCLUSION AND FOLLOW-UP ITEMS:

- The next meeting will be held on April 15, 2021.
- At the next meeting, we will present the designs for the Newport Wellington Ave alignments and provide updates on the Sprague bridge structural alternative.

*Participants will review a draft of these notes with updates made as necessary.

April 15, 2021

MEMORANDUM FOR THE RECORD

SUBJECT: Rhode Island Coastal GI Resource Agency Meeting (February Meeting)

LOCATION: WebEx Meeting

DATE OF MEETING: April 15, 2021

PREPARER: Grace Moses, USACE

ATTENDEES:

Mike Riccio, USACE
Grace Moses, USACE,
Tim Timmermann, EPA
Erica Sachs Lambert, EPA
Eric Schneider, RIDEM

Maggie Sager, NMFS
Roosevelt Mesa, NMFS
Jackie LeClair, EPA
Jean Brochi, EPA
Jeff Emidy, SHPO

REPORT:

- Model areas for the nonstructural alternative are being run and broken down by structures in the 25, 50, and 100-year flood event scenarios.
- No river closure structures on the Narrow River or Warren and Barrington Rivers are being considered.
- Floodwall/levee combination proof of concept for Wellington Ave in Newport is complete, BCR to follow. Jeff noted that the structure will be in two historic districts. The structure will be approximately hip to shoulder height as currently designed.
- The Providence structural alternative is focused on protected portions of the wastewater treatment plant. Design and BCR to be available in late May.
- TSP still on track for late July 2021.

CONCLUSION AND FOLLOW-UP ITEMS:

- Meetings will be moved to bimonthly with the next on Thursday, 17 June 2021.
- At the next meeting, we will present the designs for the ProvPort area and any refinements to the Wellington Ave floodwall.

*Participants will review a draft of these notes with updates made as necessary.



Rhode Island Coastal Study

June 2021 Resource Agency Meeting

Agency input:

- We discussed adjusting the economic model to ensure low-income homes are not indiscriminately screened out. Our econ team is working the issue.
- In the ProvPort area, the societal costs of AST and WWTP failures would be high for surrounding communities which are Env Justice areas.
 - The Corps doesn't intends to continue investigating the Providence area beyond the TSP. Not enough information or time to confidently make a recommendation at this particular milestone, but that is distinctly different than suggesting there is no risk or that no solution will ultimately be recommended for this area.
 - We are recommending that continued investigation of this area is warranted and intend to do investigative work in parallel with the rest of the study effort/milestone schedule.

The next meeting will be after TSP. Grace to send Outlook invite.

APPENDIX A4

Endangered Species Coordination



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104
<http://www.fws.gov/newengland>



In Reply Refer To:
Consultation Code: 05E1NE00-2020-SLI-0657
Event Code: 05E1NE00-2020-E-01769
Project Name: Rhode Island Coastal Study

December 06, 2019

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New England Ecological Services Field Office

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

Project Summary

Consultation Code: 05E1NE00-2020-SLI-0657

Event Code: 05E1NE00-2020-E-01769

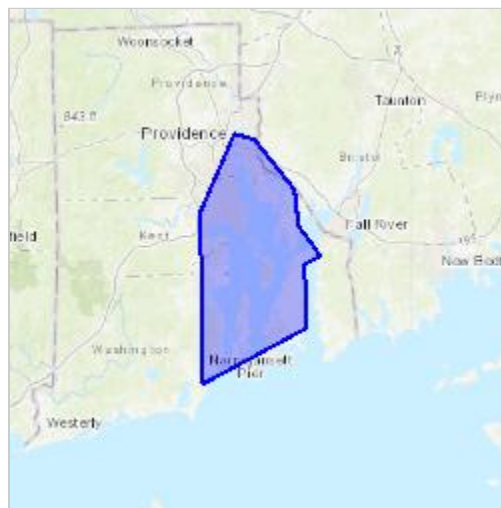
Project Name: Rhode Island Coastal Study

Project Type: LAND - FLOODING

Project Description: This is a flood control project with structural and nonstructural alternatives that are being developed to address inundation within urban areas for communities located in: Narragansett, North Kingstown, Warwick, Providence Harbor, Barrington, Warren, Bristol, Portsmouth, Newport Downtown, Newport Reservoirs and Jamestown/Rte138. PS Block island is also included in this project, but we will create a separate IPAC entry due to its distance from these locations on the mainland of RI.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.62845126726653N71.34388674049933W>



Counties: Bristol, MA | Bristol, RI | Kent, RI | Newport, RI | Providence, RI | Washington, RI

Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104
<http://www.fws.gov/newengland>



In Reply Refer To:

December 06, 2019

Consultation Code: 05E1NE00-2020-SLI-0662

Event Code: 05E1NE00-2020-E-01782

Project Name: Rhode Island Coastal Study - Block Island Segment FINAL

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

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A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

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Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

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We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

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This species list is provided by:

New England Ecological Services Field Office

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Concord, NH 03301-5094

(603) 223-2541

Project Summary

Consultation Code: 05E1NE00-2020-SLI-0662

Event Code: 05E1NE00-2020-E-01782

Project Name: Rhode Island Coastal Study - Block Island Segment FINAL

Project Type: LAND - FLOODING

Project Description: Beach nourishment and/or improvements to the existing rip rap revetment along Corn Neck Road may be justifiable.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.176061769786656N71.56187849796686W>



Counties: Washington, RI

Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

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Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Insects

NAME	STATUS
American Burying Beetle <i>Nicrophorus americanus</i> Population: Wherever found, except where listed as an experimental population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/66	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.
