



**US Army Corps  
of Engineers®**  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Comment Period Begins: August 24, 2021**  
**Comment Period Ends: September 24, 2021**  
**File Number: NAE-2015-1414**  
**In Reply Refer To: Charles Farris**  
**Phone: (978) 318-8336**  
**E-mail: Charles.n.farris@usace.army.mil**

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The District Engineer has received a permit application to conduct work in waters of the United States from the Town of Wellfleet, 200 Main Street, Wellfleet, MA 02667. This work is proposed off Kendrick Avenue in Wellfleet Harbor, Wellfleet, MA. The site coordinates are: Latitude 41.9289021 Longitude -70.027303.

The work involves maintenance dredging in the area identified as the South Anchorage also known as Area 2. Dredging will be performed through mechanical dredge operations with an environmental bucket on a clamshell dredge barge. The material is composed of silts and sands, with a silt fraction of approximately 65-95%. Approximately 21.7 total acres will be dredged to a depth of -6' MLW (with a -1' overdredge). These 21.7 acres represent the project square footage to the toe of the dredge area and 23.9 acres at the surface edge of the side slopes (disturbed area). Total volumes of 269,200 cy are expected. The Town will dispose of the dredge materials at the Cape Cod Bay Disposal Site.

The work is shown on the enclosed plans entitled “**Town of Wellfleet, Dredging**” on four sheets, and dated “August 11, 2021.”

## **AUTHORITY**

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- Section 404 of the Clean Water Act
- Section 103 of the Marine Protection, Research and Sanctuaries Act.
- Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408)

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers, New England District (USACE), is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties so the Corps can consider and evaluate the impacts of this proposed activity. The USACE will consider all comments received to

determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972, as amended.

### **Dredged Material Disposal Mitigation Discussion:**

The alternatives considered in the dredged material disposal analysis fall into four general categories: beneficial use, upland disposal, confined disposal, and open-water disposal. The feasibility of disposal alternatives was analysed relative to the physical and chemical quality of the dredged material, the volume of material to be dredged, the availability of suitable disposal and beneficial use sites, and the cost of disposal.

Based on the characteristics of the dredged material, the lack of suitable alternate disposal or beneficial use sites and costs, the most feasible, practical, cost-effective and environmentally acceptable alternative for the disposal of dredged materials from the proposed dredging is disposal at the requested disposal site.

### **Testing Information 2016 Suitability determination**

The dredged material has undergone physical and chemical analysis. It is our determination that the material is acceptable for disposal at this disposal site.

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

### **Cape Cod Bay Disposal Site**

The Cape Cod Bay Disposal Site was first used in 1971 for the disposal of sediments dredged from Wellfleet Harbor. It has been infrequently used since then for disposal of dredged material from the coasts of Cape Cod Bay. This disposal site is monitored and managed by the Massachusetts Department of Environmental Management. Studies show that the site is a low energy environment such that sediment deposited at this location will remain within the site's boundaries. Levels of metals in the sediments within the disposal site are slightly above background levels, indicative of the influence of the earlier dredge disposal at the site. Previous research has shown that areas outside the disposal site have not been found to be affected by sediment deposited within the site.

The disposal site is located within the identified limits of the Right Whale Critical Habitat Area.

## **ESSENTIAL FISH HABITAT**

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

The dredging component of this project will impact approximately 945,252 SF of Essential Fish Habitat (EFH) for the species and life stages listed on the attached sheets. The dredged material is proposed for placement at the Cape Cod Bay Disposal Site. The habitats at this site consists of silt and classified as mudflat habitat. Loss of this critical habitat may adversely affect the species and habitat shown on the plans. Habitat at the dredge and disposal sites can be described as estuarine and depositional with sediment character grading from unconsolidated and highly hydrated to consolidated and moderately plastic. Temporary loss of these habitats may adversely affect the listed species and life stages by removing or burying the sediment water interface, increasing local suspended sediment levels, displacing or burying forage species and other community members or shelter afforded those organisms and by denying the resources use of those EFHs. These impacts have been experienced in prior dredging and disposal actions and monitored by the DAMOS activities. There is an expectation that the proposed actions will follow the same event line with EFH recovery expected to follow a pattern like prior projects of the same nature. Thus, the District Engineer has made a preliminary determination that the site-specific individual and cumulative adverse effects will not be substantial. Consultation with the National Marine Fisheries Service regarding EFH conservation recommendations has been conducted and their recommendations will be addressed. The applicant is undertaking a full review of their mitigation requirement seeking to find the most practicable assembly of compensatory mitigation measures that would be applied after efforts to avoid and minimize the impact to critical habitats have been addressed.

The dredging portion of this project will impact approximately 945,252 SF of EFH. Habitat at this site can be described as 65-95% silt. Loss of this habitat may adversely affect species that use these waters and substrate. However the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

The dredged material disposal is proposed for Cape Cod Bay Disposal Site (CCBDS). This is an open water site, which provides EFH. Habitat at this site can be described as 65-95% silt. Loss of this habitat may adversely affect species that use these waters and substrate. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

## **NATIONAL HISTORIC PRESERVATION ACT**

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is

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based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.
- e. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer(s).

**ENDANGERED SPECIES CONSULTATION**

The USACE is reviewing the application for the potential impact on Federally-listed threatened or endangered species and their designated critical habitat pursuant to section 7 of the Endangered Species Act as amended. Our review will be concluded prior to the final decision.

The USACE has reviewed the application for the potential impact on Federally-listed threatened or endangered species and their designated critical habitat pursuant to section 7 of the Endangered Species Act as amended. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect a listed species or their critical habitat. We are coordinating with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service on listed species under their jurisdiction and the ESA consultation will be concluded prior to the final decision.

**OTHER GOVERNMENT AUTHORIZATIONS**

The states of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable, the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- ( x ) Permit, license or assent from State.
- ( x ) Permit from local wetland agency or conservation commission.
- ( x ) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

**COMMENTS**

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Charles Farris at (978) 318-8336, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a



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public hearing. The USACE holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed after considering facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**



**Robert J. DeSista**  
**Chief, Policy and Technical Support Branch**  
**Regulatory Division**

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If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil).



File: B:\Working\_WELLFLEET\_MA\_TOWN\_OF\_WELLFLEET\_Dredging\_Design\_00\_CAD\_Design\_Working\_2021\_DREDGING\_REGULATORY\_SHT-01\_LOCUS.dwg

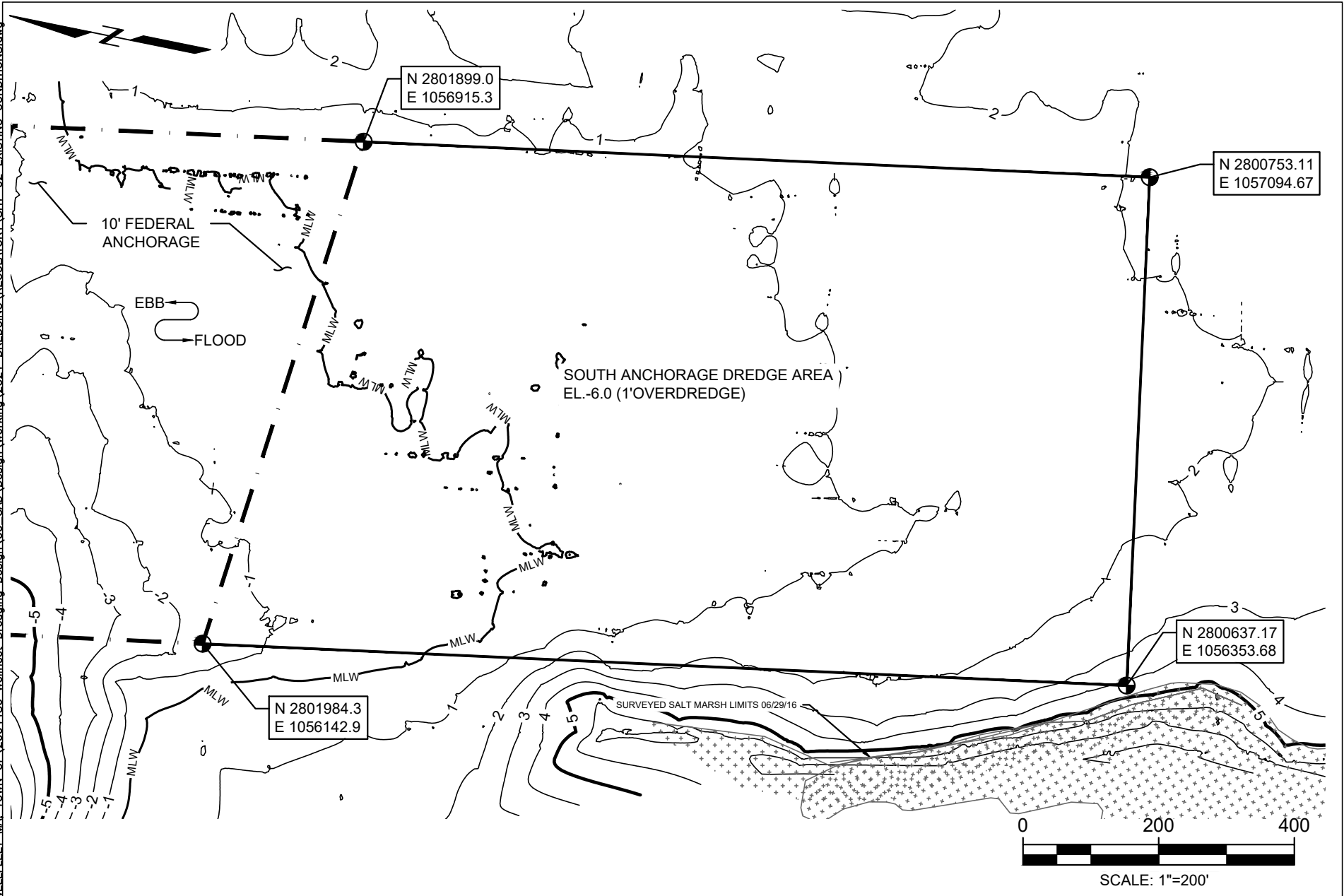


100 YR FLOOD	+17.06
HTL	+12.86
MHW	+9.66
NAVD88	+5.89
MLW	0.0
MLLW	-0.34

TITLE: LOCUS MAP		IN: WELLFLEET HARBOR	
PURPOSE: HARBOR DREDGING		AT: WELLFLEET	
APPLICATION BY: TOWN OF WELLFLEET		COUNTY: BARNSTABLE STATE: MA	
		SHEET: 01 OF 04	
		DATE: 8/11/2021	



File: B:\Working\WELFLEET MA\_TOWN\_OF\_WELFLEET Dredging Design\00\_CAD\Design\Working\2021\_DREDGING\_REGULATORY\_SHT-02\_EXISTING\_CONDITIONS.dwg



100 YR FLOOD	+17.06
HTL	+12.86
MHW	+9.66
NAVD88	+5.89
MLW	0.0
MLLW	-0.34

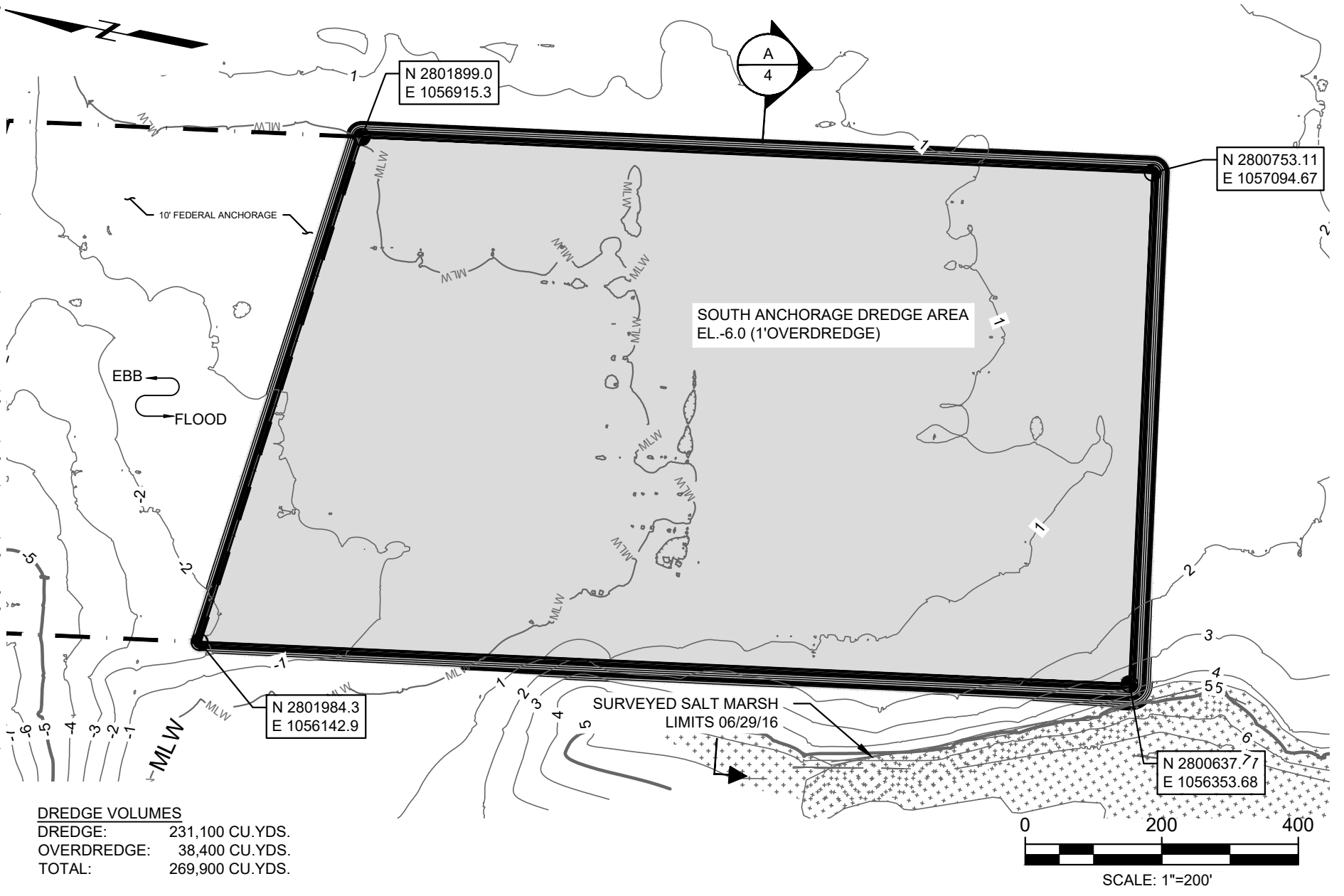
TITLE: EXISTING CONDITIONS – PLAN

PURPOSE:  
HARBOR DREDGING

APPLICATION BY:  
TOWN OF WELFLEET

IN: WELFLEET HARBOR  
 AT: WELFLEET  
 COUNTY: BARNSTABLE STATE: MA  
 SHEET: 02 OF 04  
 DATE: 8/11/2021

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**DREDGE VOLUMES**  
 DREDGE: 231,100 CU.YDS.  
 OVERDREDGE: 38,400 CU.YDS.  
 TOTAL: 269,900 CU.YDS.

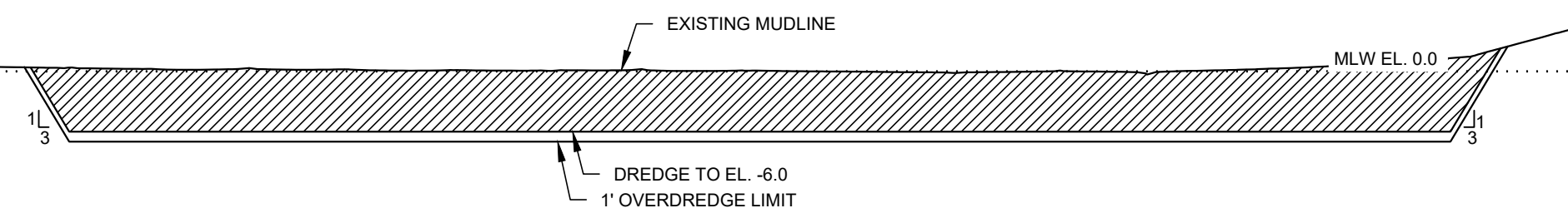


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TITLE: LOCUS MAP	
PURPOSE: HARBOR DREDGING	APPLICATION BY: TOWN OF WELFLEET

IN: WELFLEET HARBOR AT: WELFLEET COUNTY: BARNSTABLE STATE: MA SHEET: 03 OF 04 DATE: 8/11/2021
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File: B:\Working\WELFLEET\_MA\_TOWN\_OF\2004486\_Wellfleet\_Dredging\_Design\00\_CAD\Design\_Working\2021\_DREDGING\_REGULATORY\_SHT-05\_SECTIONS.dwg



A **DREDGE SECTION**  
4 HORIZONTAL SCALE: 1" = 80'-0"



100 YR FLOOD	+17.06
HTL	+12.86
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MLW	0.0
MLLW	-0.34

TITLE: DREDGE SECTION		IN: WELFLEET HARBOR
PURPOSE: HARBOR DREDGING		AT: WELFLEET
APPLICATION BY: TOWN OF WELFLEET		COUNTY: BARNSTABLE STATE: MA
		SHEET: 04 OF 04
		DATE: 8/11/2021