



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

PUBLIC NOTICE

Comment Period Begins: September 27, 2022
Comment Period Ends: October 27, 2022
File Number: NAE-2022-00757
In Reply Refer To: Daniel Breen
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The District Engineer has received a permit application to conduct work in waters of the United States from the United States Navy, 1 Simonpietri Drive, Newport, Rhode Island 02841 (POC: Mr. David Dorocz, david.d.dorocz.civ@us.navy.mil). This work is proposed at Naval Station Newport, located within Coddington Cove on Defense Highway in Middletown, Rhode Island 02842. The site coordinates are: Latitude 41.5255°N, Longitude -71.3116°W.

The U.S. Navy proposes to replace two sections of bulkhead and riprap revetment within Coddington Cove. An EPA inspection in 2016 identified deteriorated conditions that have contributed to at least four large sinkholes in the vicinity of stormwater outfalls through a bulkhead. The Navy is required to repair or replace the bulkheads and contain the sediment behind the existing revetment to prevent further unpermitted soil discharges into Coddington Cove. Within waters of the U.S. subject to USACE regulatory authority, there would be two 309-foot and 90-foot sections of replacement bulkhead constructed; 300 cubic yards of pea stone placed within 400 square feet below the high tide line (HTL) as backfill in between the two new and existing bulkheads; 800 cubic yards of riprap installed below the HTL as bulkhead toe protection; 900 cubic yards of riprap installed within 11,000 square feet below the HTL to construct a new 211-foot revetment as shoreline stabilization; and excavation of dredged material within 4,900 square feet below the mean high water (MHW) line for the bulkhead replacements and 11,000 square feet below MHW to facilitate the revetment construction.

The work is shown on the enclosed plans entitled “Bulkhead Repairs S366 and S45 and Stormwater Repairs (Installation Restoration Site), Naval Station, Newport, Rhode Island,” on 48 sheets and dated November 2021.

The applicant does not propose compensatory mitigation because there would be no permanent loss of waters of the U.S. During construction, measures to avoid and minimize impacts to waters of the U.S. would include a turbidity curtain, turbidity monitoring, pre- and post-dredging bathymetric surveys, and sediment control measures.

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.

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

CENAE-R
FILE NO. NAE-2022-00757

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 in order to 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.

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 (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). EFH describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

This project will impact approximately 9,000 square feet of EFH. This habitat consists of fine-grained silt and sandy sediment, as well as areas of shells and macroalgae that are typically covered in a thin layer of sediment. No eelgrass has been documented at the site. Modification 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. The U.S. Navy, as the lead Federal agency for this project, resolved EFH consultation with the NMFS on June 30, 2021. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process.

NATIONAL HISTORIC PRESERVATION ACT

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Piers 1 and 2 and Bulkhead Section S33 have been identified as contributing resources to the Newport Naval Station Destroyer Piers Historic District. The U.S. Navy, as the lead Federal agency for this project, resolved consultation with the Rhode Island State Historic Preservation Officer (SHPO), pursuant to Section 106 of the National Historic Preservation

CENAE-R
FILE NO. NAE-2022-00757

Act of 1966, as amended, with a memorandum of agreement (MOA) signed on July 21, 2021. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process.

ENDANGERED SPECIES CONSULTATION

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 (ESA) 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. The U.S. Navy, as the lead Federal agency for this project, resolved ESA consultation with the National Marine Fisheries Service on August 4, 2021. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process.

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:

- Permit, license or assent from State.
- Permit from local wetland agency or conservation commission.
- 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 Daniel Breen at (978) 318-8831, (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 public hearing. The USACE holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. 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.

CENAE-R
FILE NO. NAE-2022-00757

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.

Kevin R Kotelly

**Kevin R. Kotelly, P.E.
Chief, Permits and Enforcement Branch
Regulatory Division**

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.