



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

PUBLIC NOTICE

Comment Period Begins: July 19, 2016
Comment Period Ends: August 18, 2016
File Number: NAE-2004-4187
In Reply Refer To: Kevin R. Kotelly, P.E.
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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 Barnstable, Massachusetts. This work is proposed in Maraspin Creek/Barnstable Harbor and Sandy Neck in Barnstable, Massachusetts. The site coordinates are: Latitude 41°42'36" Longitude 70°18'00".

PERMIT MODIFICATION

This public notice is for a permit modification to the existing permit issued in 2008. The modification is to allow for the maintenance dredging of the Mid-Entrance Channel located within Barnstable Harbor using mechanical methods (barge mounted excavator or crane) with offshore disposal of approximately ±3,492 cubic yards (CY) of sediments at the Cape Cod Bay Disposal Site. The Town is planning to conduct the required maintenance dredging in the Fall 2016 - Winter 2017 season.

The existing Corps permit currently authorizes the hydraulic dredging of this section of the Entrance Channel with the placement of sediments within the adjacent Blish Point Sediment Containment Basin. Since the Town last dredged this portion of the entrance channel in 2008-2009, the containment basin has been impacted by significant erosion and is therefore, no longer considered a stable or viable site for placement of dredge sediments. Accordingly, the Town is seeking a permit modification, to allow the maintenance dredging to proceed using mechanical methods as required for the disposal of sediments at the Cape Cod Bay Disposal Site. This area is part of the existing, ongoing, permit described below and is the only part of the permit being modified. The Corps is performing a suitability determination to confirm that the sediments are suitable for disposal at Cape Cod Bay Disposal Site.

EXISTING PERMITTED WORK

The work includes work in navigable waters and the discharge of dredged or fill material to dredge an approximately 182,000 square-foot (SF) area to a depth of 6 feet (FT) below mean low water (MLW) at Maraspin Creek/Barnstable Harbor in Barnstable, Massachusetts. Approximately 20,000 cubic yards (CY) of sandy material will be removed by hydraulic means, dewatered above the high tide line (HTL) at the nearby Millway Beach, and disposed of below the HTL as beach and dune nourishment at Sandy Neck Cottage Area and Sandy Neck Lighthouse Area and above the HTL at Sandy Neck Public Beach. The project will be performed in two phases.

Disposal below the HTL at the Sandy Neck Cottage Area includes the filling of approximately 3,550 SF of saltmarsh as part of the restoration of a degraded coastal dune in that area. The applicant stated that the depression area where the fill will be placed was created approximately 20 years ago through the mechanical removal of material from the coastal dune during the construction of a culvert and berm for storm protection in that area. The applicant also stated that the mechanical excavation of the coastal dune altered the natural hydrology of the area and created conditions such that this area is now below the HTL, when it was historically

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above the HTL. As such, this degraded coastal dune area is now subjected to flooding during high storm tides, cutting off access to several structures and creating a safety hazard.

The Sandy Neck Cottage Area coastal dune, which was previously excavated in the 1980's, is primarily unvegetated, although several small clumps of *Spartina patens* and *Salicornia* species exist around the perimeter and within the southeastern section of the depression. Collectively, these salt-tolerant plants growing below the HTL, vegetate approximately 3,550 SF within the degraded dune area and are regulated as saltmarsh.

As part of Phase 2 of the dredging of the Barnstable Harbor Entrance Channel, the Town proposes to restore the dune at the Sandy Neck Cottage Area by placing clean dredge material into the excavated area, thereby restoring the natural elevations, hydrology and functions of the dune. The volume of material required for Coastal Dune restoration within this area is approximately 7,500 CY, filling an area of approximately 82,300 SF below the HTL. The material used for dune restoration will consist of both sand and silty sand sediments, as appropriate for dune restoration. Following the placement of sediments, the area will be vegetated with American Beach Grass (*Ammophila breviligulata*) to the extent recommended and agreed upon by both the Natural Heritage and Endangered Species Program (NHESP) and the U.S. Fish and Wildlife Service. The access route that currently exists through the depression will be discontinued and vehicular traffic will be required to be re-routed through access areas to be determined by the Town, the Sandy Neck Park Manager, and the Massachusetts Department of Conservation and Recreation (DCR) Area of Critical Environmental Concern (ACEC) Program.

The work is shown on the attached plans entitled, "Project: Barnstable Harbor Mid-Entrance Channel Maintenance Dredging," on five sheets, and dated, June 13, 2016.

AUTHORITY

Permits are required pursuant to:

- X Section 10 of the Rivers and Harbors Act of 1899
- X 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 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 Corps of Engineers 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. Any comments received will be considered by the Corps of Engineers 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

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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.

The dredged material has undergone physical, chemical, and/or biological analysis. It is our preliminary determination that the material is acceptable for disposal at the 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.

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 years.

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).

This project will impact approximately 6.1 acres of Essential Fish Habitat (EFH) for Atlantic cod (all life stages), haddock (eggs and larvae), pollock (all life stages except eggs), whiting (all life stages), red hake (all life stages), white hake (all life stages), winter flounder (all life stages), yellowtail flounder (all life stages), windowpane flounder (all life stages), American plaice (all life stages), ocean pout (all life stages), Atlantic halibut (all life stages), Atlantic sea scallops (all life stages), Atlantic sea herring (all life stages), bluefish (juveniles and adults), long finned squid (juveniles and adults), short finned squid (juveniles and adults), Atlantic butterfish (all life stages), Atlantic mackerel (all life stages), summer flounder (adults only), scup (juveniles and adults), black sea bass (juveniles and adults), spiny dogfish (juveniles and adults) and bluefin tuna (juveniles and adults). This habitat consists of intertidal and subtidal sandy substrate and saltmarsh. Loss of this habitat may adversely affect the species listed above.

The District Engineer has made a preliminary determination that the site-specific adverse effects to EFH 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 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 New England District, Army Corps of Engineers has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. 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 any Federally listed endangered or threatened species or their designated critical habitat. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

COASTAL ZONE MANAGEMENT

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.

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 Kevin Kotelly at (978) 318-8703, (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 Corps 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.

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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.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Barbara H. Newman
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. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____

ADDRESS: _____

PHONE: _____