



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

PUBLIC NOTICE

696 Virginia Road
Concord, MA 01742-2751

Date: 21 August 2007
Comment Period Ends: 21 September 2007
File Number: NAE 2006 - 4296
In Reply Refer To: Mr. Brian E. Valiton
Or by e-mail: brian.e.valiton@usace.army.mil

The District Engineer has received a permit application from the applicant below to **conduct work in waters of the United States** as described below. The Corps is soliciting comments on both the project itself and the range of issues to be addressed in the environmental documentation.

APPLICANT: Town of Westport Massachusetts – 816 Main Road, Westport, MA 02790

ACTIVITY:

Maintenance Dredging of Westport Town Wharves and Town Creek Westport Harbor - The project involves maintenance dredging of not more than 20,000 cu. yds. of material (dredging to depths ranging from -4' m.l.w. to -7' m.l.w. depending on the particular area as shown on the drawings) from previously dredged areas around the Town Wharves and from the previously dredged Town Creek with the material to be disposed of at the Cape Cod Bay Disposal Site (CCBDS). The total area of dredging is now approximately 78,000 sq. ft. (reduced from what was originally proposed). The material to be dredged has been analyzed by the Corps, in conjunction with other appropriate Federal agencies, and it has been determined to be suitable for disposal at the CCBDS. The dredging in Town Creek will impact existing eelgrass beds (hence the need for this individual permit application to the Corps) totalling approximately 2,900 sq. ft. and the Town of Westport has proposed an eelgrass replication area equivalent to the affected eelgrass area. A detailed description and plans of the applicant's activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK

This dredging is proposed in Westport Harbor at the southerly end of Main Road. The proposed dredging location is the USGS Westport quadrangle sheet at approximately UTM Zone 19 coordinates 4598000.00 N and 0327100.00 E. Disposal of the dredged material is proposed for the Cape Cod Bay Disposal Site in Cape Cod Bay. This is a one nautical mile square area, approximately 17.3 km south of Provincetown, with the center at 41 degrees 54.4.' north latitude and 70 degrees 13.3' west longitude.

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 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 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 on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The dredging portion of this project will impact approximately 78000 SF of Essential Fish Habitat (EFH) for American plaice (juveniles, adults), Atlantic butterfish (eggs, larvae. Juveniles, adults), Atlantic cod (eggs, larvae, juveniles, adults), , Atlantic mackerel (eggs, larvae, juveniles, adults), Atlantic sea herring (juveniles, adults), bluefish (juveniles, adults), haddock (eggs, larvae), Ocean pout (eggs, larvae, adults), red hake (eggs, larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), windowpane flounder (eggs, larvae, juveniles, adults), long-finned squid (juveniles, adults), short-finned squid (juveniles, adults), summer flounder (eggs, larvae, juveniles, adults), scup (eggs, larvae, juveniles, adults), black sea bass (larvae, juveniles, adults), surf clam (juveniles, adults), king mackerel (eggs, larvae, juveniles, adults), Spanish mackerel (eggs, larvae, juveniles, adults), cobia (eggs, larvae, juveniles, adults), sand tiger shark (juveniles), blue shark (larvae, adults), dusky shark (juveniles), shortfin mako shark (juveniles), sandbar shark (juveniles, adults), bluefin tuna (adults) and yellowtail flounder (juveniles). Habitat at this site can be described as sub-tidal silty gravel and sands and includes approx. 2900 sq. ft. of eelgrass beds. Loss of this habitat may adversely affect the species that utilize these aquatic areas. 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 the approved CCBDS under permit conditions and restrictions applicable to that site, including various time of restrictions, that have been developed over the years to insure that there are no unacceptable impacts to any marine species in this area.

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)

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:

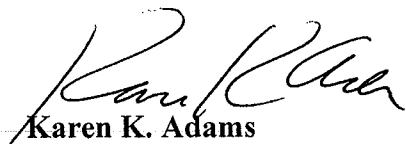
- Permit, License or Assent from State.
- Permit from Local Wetland Agency or Conservation Commission.
- Water Quality Certification in accordance with Section 401 of the Clean Water Act.

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 Mr. Brian Valiton at (978) 318-8166, (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.

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. For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Division

CENAE-R
FILE NO. NAE-2006-4296

If you would prefer not to continue receiving Public Notices, 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: _____

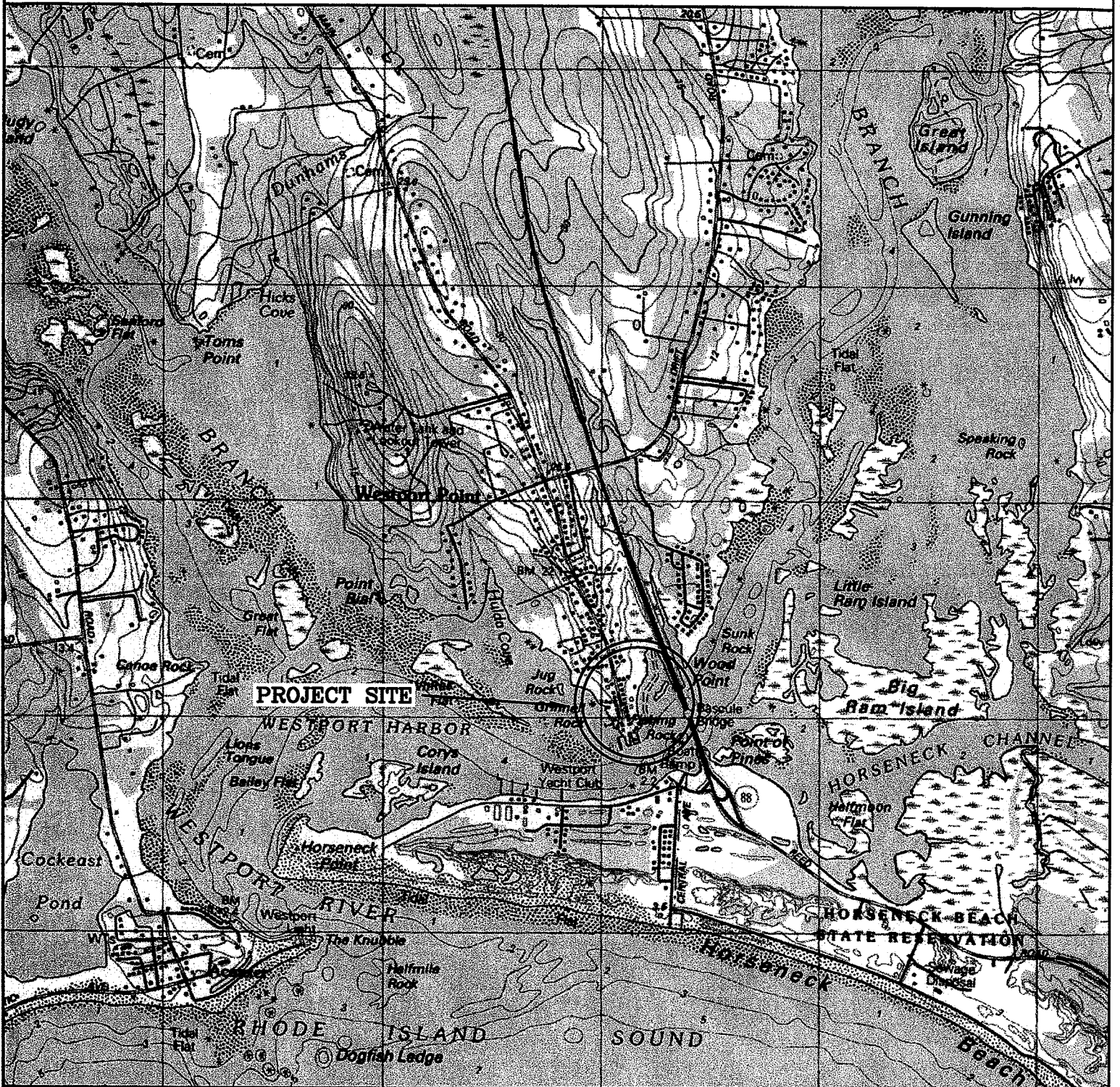
CENAE-R

FILE NO. NAE-2006-4296

PROPOSED WORK AND PURPOSE

The work includes the dredging of a maximum of up to 20,000 cubic yards of silty gravel and sands, including dredging approx. 2,900 sq. ft. of eelgrass, to depths varying from approx. -4' m.l.w. in the Town Creek area to depths of up to -7' m.l.w. in and around the Town piers. The dredged material will be disposed of at the Cape Cod Bay Disposal Site.

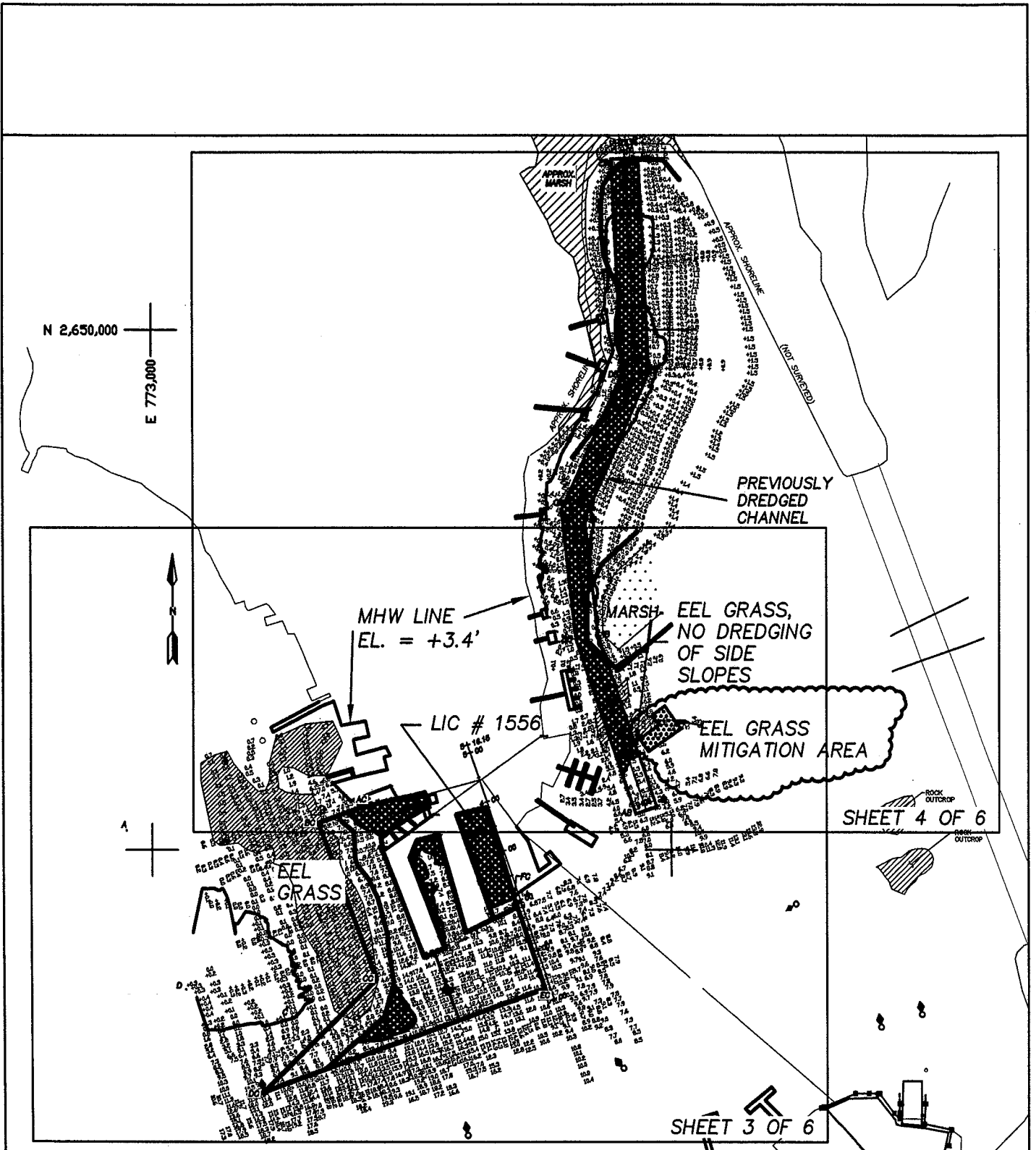
The work is described on the enclosed plans entitled "PROPOSED MAINTENANCE DREDGING PLAN, WESTPORT TOWN WHARVES & CREEK IN WESTPORT HARBOR, MA AT: 2061 MAIN ROAD COUNTY OF: BRISTOL TOWN OF WESTPORT," on 6 sheets, and dated "12/15/06 with a revision dated 07/12/07 and with sheets 2 and 4 of 6 with an additional revision dated 08/03/07."



PURPOSE: PROPOSED MAINTENANCE
 DREDGING WILL IMPROVE ACCESS
 TO NAVIGABLE WATERS
DATUM: MLW = 0.0
 MHW = 3.4
 HTL = 4.0
CLE ENGINEERING, INC.
 15 CREEK RD. MARION, MA 02738

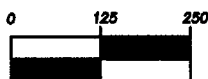
VICINITY MAP
USGS WESTPORT
QUAD SHEET
SCALE: 1"=2083'

PROPOSED MAINTENANCE DREDGING
PLAN, WESTPORT TOWN WHARVES &
CREEK
IN WESTPORT HARBOR, MA
AT: 2061 MAIN ROAD
COUNTY OF: BRISTOL
TOWN OF WESTPORT
DATE: 12/15/06 SHEET 1 OF 6
REV: 07/12/07



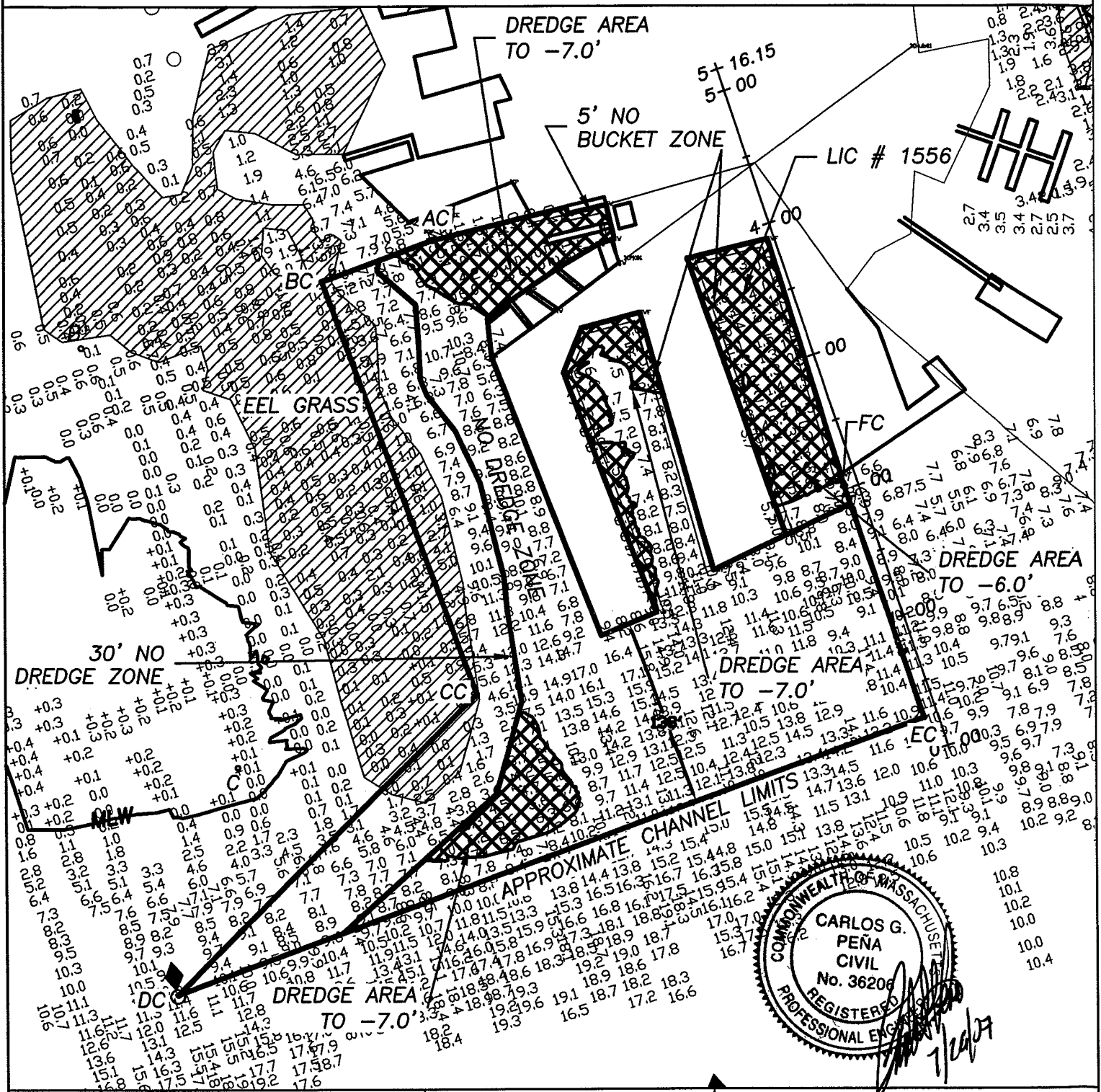
PURPOSE: PROPOSED MAINTENANCE
 DREDGING WILL IMPROVE ACCESS
 TO NAVIGABLE WATERS
 DATUM: MLW = 0.0
 MHW = 3.4
 HTL = 4.0
 CLE ENGINEERING, INC.
 15 CREEK RD. MARION, MA 02738

SITE PLAN
 WHARVES AREA

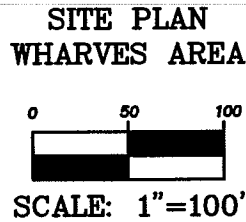


SCALE: 1"=250'

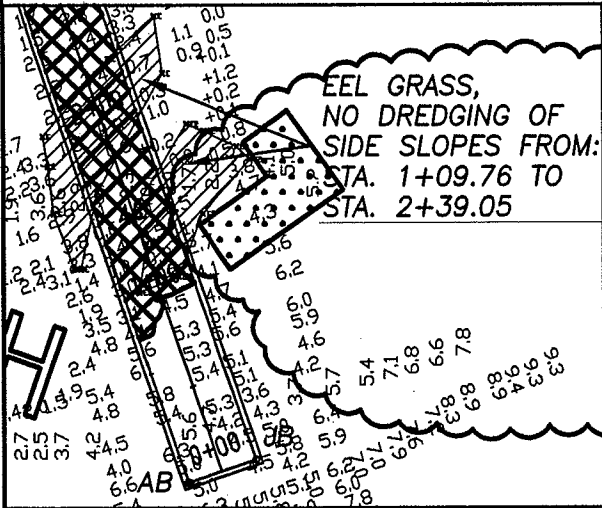
PROPOSED MAINTENANCE DREDGING
 PLAN, WESTPORT TOWN WHARVES &
 CREEK
 IN WESTPORT HARBOR, MA
 AT: 2061 MAIN ROAD
 COUNTY OF: BRISTOL
 TOWN OF WESTPORT
 DATE: 12/15/06 SHEET 2 OF 6
 REV: 07/12/07, 08/03/07



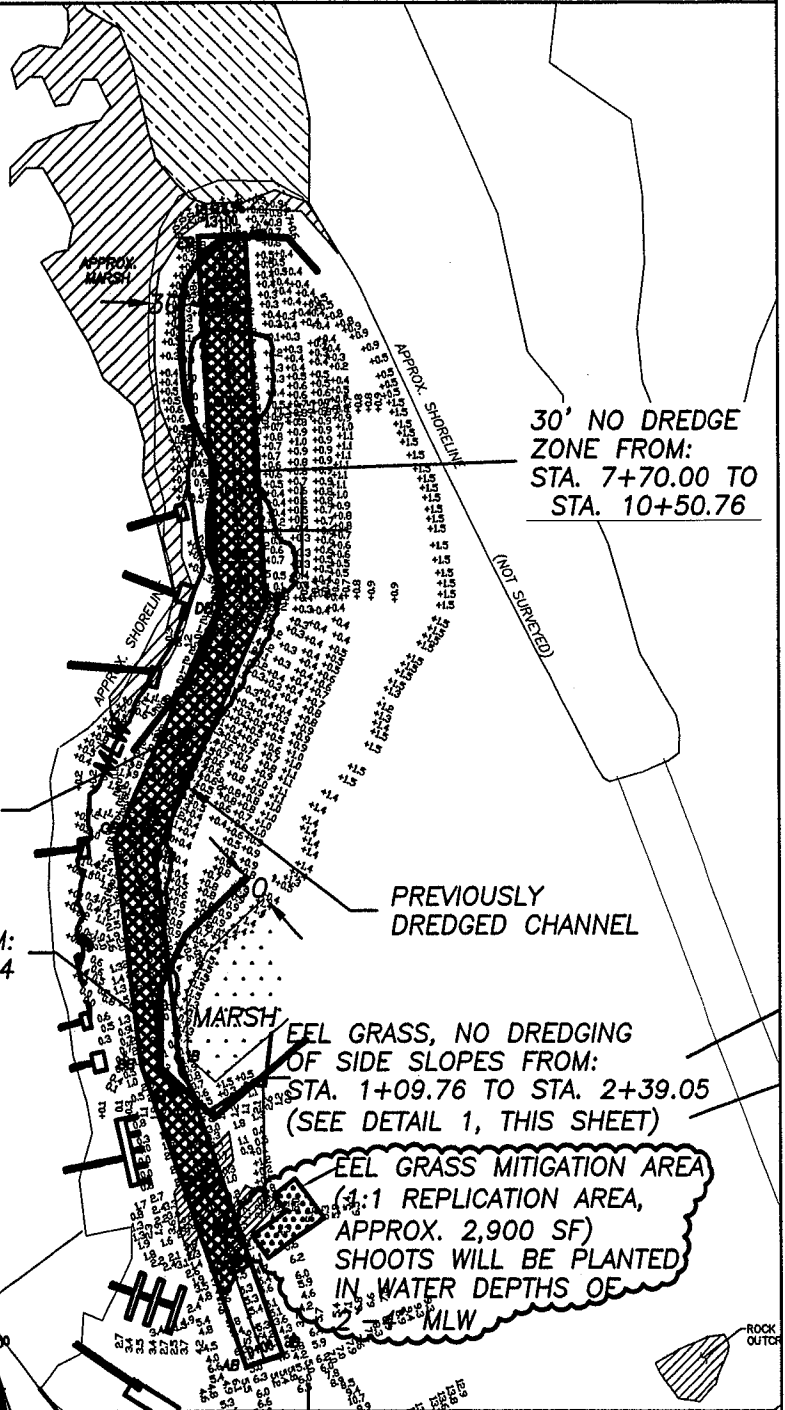
PURPOSE: PROPOSED MAINTENANCE DREDGING WILL IMPROVE ACCESS TO NAVIGABLE WATERS
 DATUM: MLW = 0.0
 MHW = 3.4
 HTL = 4.0
 CLE ENGINEERING, INC.
 15 CREEK RD. MARION, MA 02738



PROPOSED MAINTENANCE DREDGING PLAN, WESTPORT TOWN WHARVES & CREEK
 IN WESTPORT HARBOR, MA
 AT: 2061 MAIN ROAD
 COUNTY OF: BRISTOL
 TOWN OF WESTPORT
 DATE: 12/15/06 SHEET 3 OF 6
 REV: 07/12/07



DETAIL 1
ELL GRASS AREA
 SCALE: 1"=100'



30' NO DREDGE ZONE FROM:
 STA. 7+70.00 TO
 STA. 10+50.76

DREDGE AREA TO -4.0' WITH 3:1 SIDE SLOPES

30' NO DREDGE ZONE FROM:
 STA. 2+90.45 TO STA. 4+53.44

PREVIOUSLY DREDGED CHANNEL

EEL GRASS, NO DREDGING OF SIDE SLOPES FROM:
 STA. 1+09.76 TO STA. 2+39.05
 (SEE DETAIL 1, THIS SHEET)

EEL GRASS MITIGATION AREA
 (4:1 REPLICATION AREA, APPROX. 2,900 SF)
 SHOOTS WILL BE PLANTED IN WATER DEPTHS OF 2' TO MLW

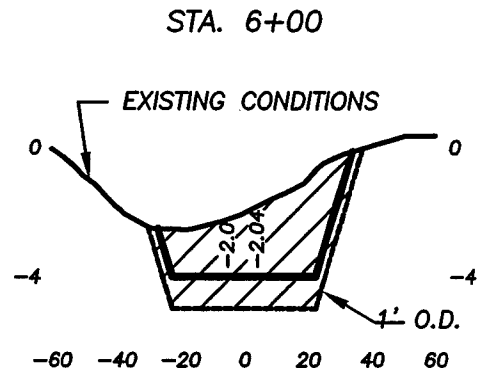
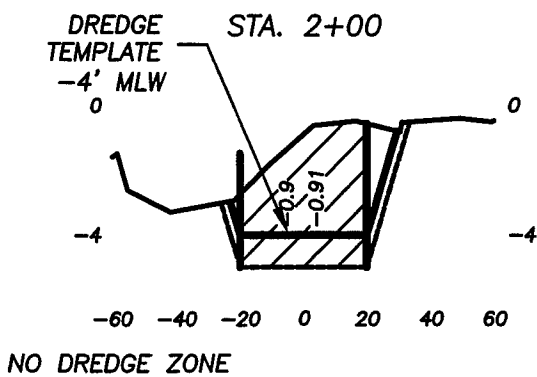
PURPOSE: PROPOSED MAINTENANCE DREDGING WILL IMPROVE ACCESS TO NAVIGABLE WATERS
 DATUM: MLW = 0.0
 MHW = 3.4
 HTL = 4.0
 CLE ENGINEERING, INC.
 15 CREEK RD. MARION, MA 02738

SITE PLAN CREEK AREA

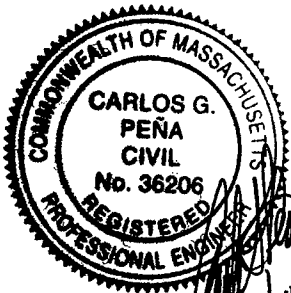


SCALE: 1"=200'

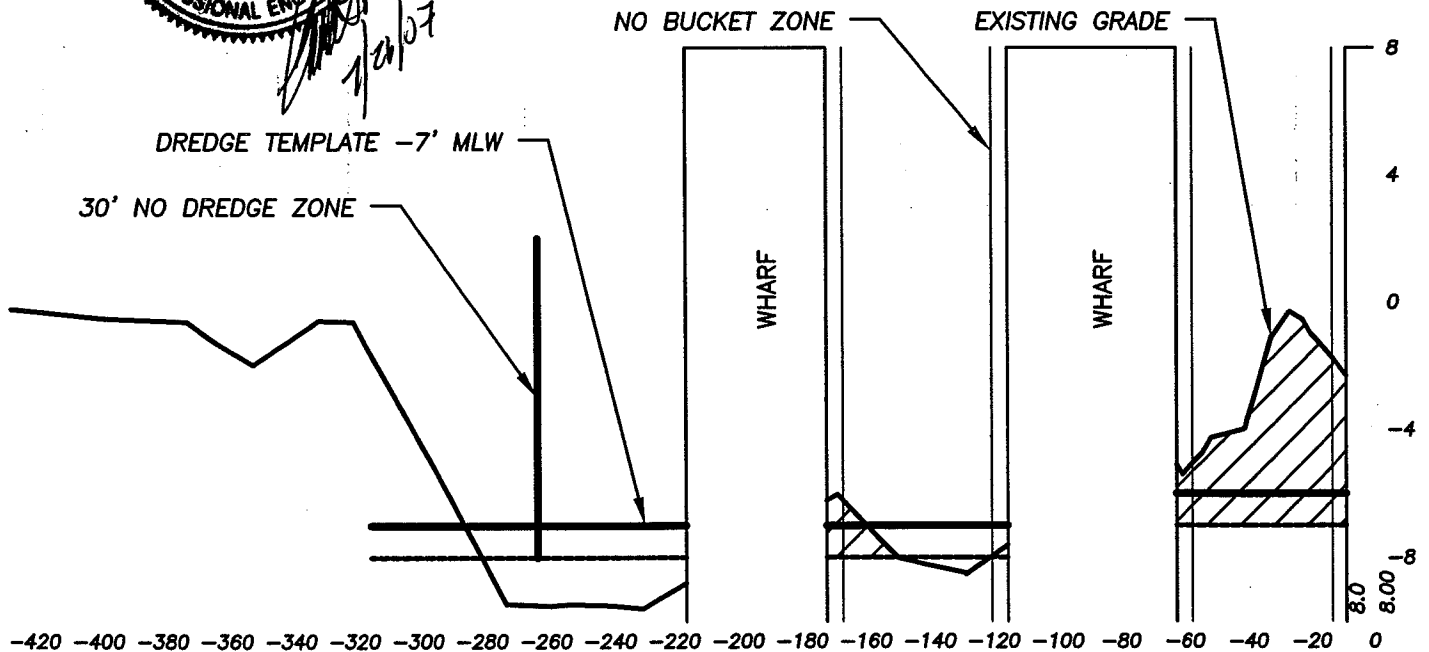
PROPOSED MAINTENANCE DREDGING PLAN, WESTPORT TOWN WHARVES & CREEK
 IN WESTPORT HARBOR, MA
 AT: 2061 MAIN ROAD
 COUNTY OF: BRISTOL
 TOWN OF WESTPORT
 DATE: 12/15/06 SHEET 4 OF 6
 REV: 07/12/07, 08/03/07



CREEK SECTIONS
SCALE: 1" = 60' H; 1" = 6' V



STA. 2+50

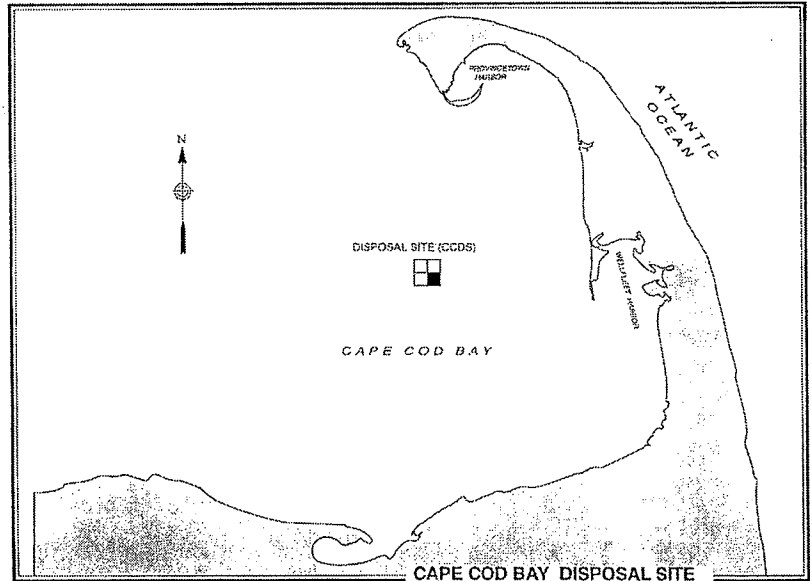
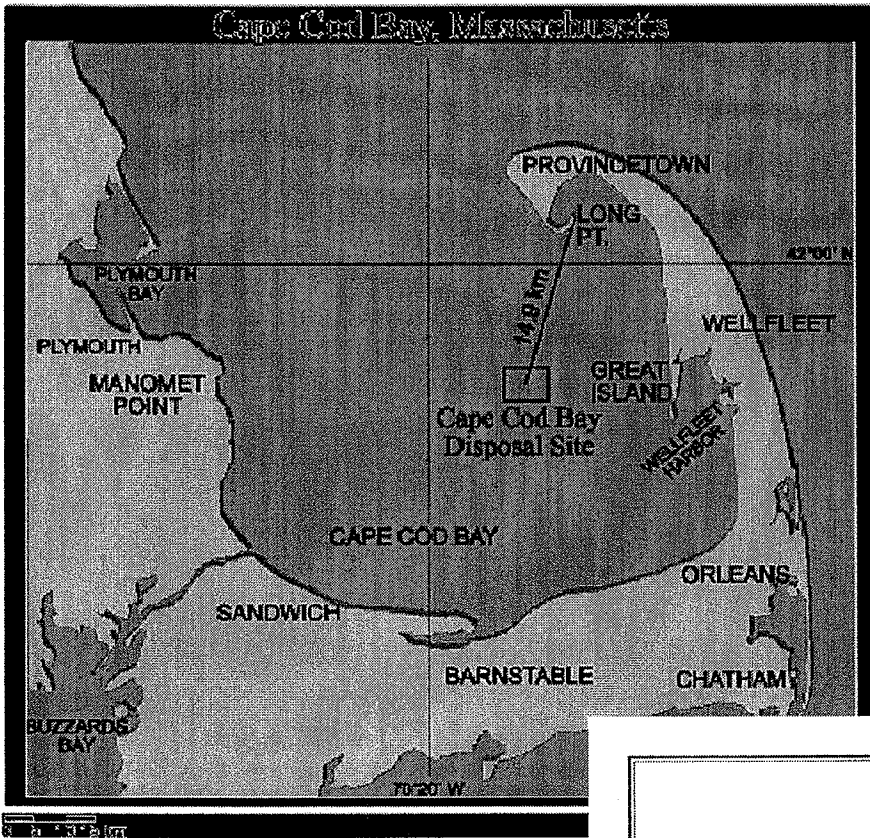


WHARVES SECTIONS
SCALE: 1" = 60' H; 1" = 6' V

PURPOSE: PROPOSED MAINTENANCE DREDGING WILL IMPROVE ACCESS TO NAVIGABLE WATERS
DATUM: MLW = 0.0
MHW = 3.4
HTL = 4.0
CLE ENGINEERING, INC.
15 CREEK RD. MARION, MA 02738

CROSS SECTIONS
WHARVES & CREEK
TOWN OF WESTPORT

PROPOSED MAINTENANCE DREDGING PLAN, WESTPORT TOWN WHARVES & CREEK
IN WESTPORT HARBOR, MA
AT: 2061 MAIN ROAD
COUNTY OF: BRISTOL
TOWN OF WESTPORT
DATE: 12/15/06 SHEET 5 OF 6
REV: 07/12/07



Description: This site is one nautical mile square area oriented north-south with center at 41° 54.4'N, 70° 13.3'W. It is located in eastern Cape Cod Bay approximately 17.3 km south of Provincetown and 8.6 km northwest of Billingsgate Shoal near the entrance to Wellfleet Harbor. Depth at center: 31 meters. The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project document.

NOTE: The map depicts the disposal site's location in relation to landmarks. It is not intended for use in navigation.

PURPOSE: PROPOSED MAINTENANCE DREDGING WILL IMPROVE ACCESS TO NAVIGABLE WATERS
 DATUM: MLW = 0.0
 MHW = 3.4
 HTL = 4.0
 CLE ENGINEERING, INC.
 15 CREEK RD. MARION, MA 02738

DISPOSAL AREA
 N.T.S

PROPOSED MAINTENANCE DREDGING PLAN, WESTPORT TOWN WHARVES & CREEK
 IN WESTPORT HARBOR, MA
 AT: 2061 MAIN ROAD
 COUNTY OF: BRISTOL
 TOWN OF WESTPORT
 DATE: 12/15/06 SHEET 6 OF 6
 REV: 07/12/07