



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

696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

**In Reply Refer to: Programs Project
Management Division**

Email: nae-pn-nav@usace.army.mil

Date: February 25, 2009

Comment Period Closes: March 27, 2009

30 DAY PUBLIC NOTICE

MAINTENANCE DREDGING OF THE 35-FOOT FEDERAL CHANNEL IN PORTLAND HARBOR, MAINE

Interested parties are hereby notified that the U.S. Army Corps of Engineers, New England District, plans to perform maintenance dredging of the 35-foot Federal channel of the Portland Harbor Federal navigation project, involving work in the navigable waters of this District, under the provisions of Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532) and Section 404 of the Clean Water Act of 1977 (P.L. 95-217) and to authorize such work in accordance with Title 33, Parts 335-338 and Title 40, Parts 220-229 of the Code of Federal Regulations. Attachment No. 1 lists pertinent laws, regulations, and directives.

Project Description: The Portland Harbor Federal navigation project was authorized by the River and Harbor Act of July 4, 1836, and supplemented by enactments. The Federal project in Portland Harbor consists primarily of a 45-foot-deep at Mean Lower Low Water (MLLW) channel and anchorage, a 35-foot-deep channel, and a 30-foot-deep anchorage and channel. The proposed work consists of the maintenance dredging of the 35-foot-deep channel.

Character and Purpose of Work: Dredging is needed to restore the 35-foot Federal channel to authorized dimensions. Portland Harbor is the largest commercial port in Maine, and one of the largest in New England. Oil tankers, cargo vessels, tugs and barges, fishing vessels, cruise ships, and recreational boats use the harbor. Natural shoaling processes have reduced available depths in portions of the channel to approximately 33 feet. This shoaling may impede deep draft commercial vessels.

The proposed work consists of the maintenance dredging of about 600,000 cubic yards of primarily silt and clay material, returning to authorized dimensions the portions of the Federal navigation project with an authorized depth of -35 feet MLLW. The work will be performed by a private contractor, using a mechanical dredge and scows, under contract to the government. The dredge will remove the material from the bottom of the harbor and place it in scows which will be towed by tug to the Portland Disposal Site, about 10 miles away, where the material will be released. In addition, approximately five rock ledge pinnacles, totaling about 1,500 cubic yards, projecting approximately one to two feet above the -35 foot MLLW plane will be

removed. A vicinity map and the Federal navigation project are shown in Attachment No. 2. The area to be dredged, the 35-foot-deep Federal channel, is shown in Attachment No. 3. The work will be accomplished over about a five to six month period, between about November 1 and April 30, of the year(s) in which funds become available. The Contractor will be allowed to dredge 24 hours per day, 7 days per week. Officials from the State of Maine and the cities of Portland and South Portland have requested that this project be maintained.

Disposal Area: The Portland Disposal Site (PDS), shown on Attachment No. 4, is one of three regional dredged material disposal sites located in the waters of Maine. It covers a 1 nmi² (3.4 km²) area of seafloor centered at 43° 34.111' N, 70° 01.9386' W (NAD 83), approximately 7.1 nmi (13.2 km) east of Dyer Point, Cape Elizabeth, Maine. PDS is characterized by rough, irregular bottom topography, with areas of soft sediment accumulation in the basins among bedrock outcrops. The Portland Disposal Site is periodically used for the disposal of suitable bottom sediments dredged principally from the Portland Harbor/Fore River area (suitability determined through case-by-case analyses). The quantity of sediments deposited at the site varies considerably each year and peaks when the Federal Channel in Portland Harbor is maintained (approximately every 10 years). Since 1982, an annual average of 160,000 cubic yards of sediments have been deposited. The site has been monitored through the Corps' Disposal Area Monitoring System (DAMOS). DAMOS 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 and organics in the sediments within the disposal site are generally low and in most instances are not substantially greater than background levels, indicative of the relatively uncontaminated nature of many of the areas dredged that utilize the site. Areas outside of the disposal site have not been found to be affected by sediment deposited within the site. The Portland Disposal Site has been designated by EPA for the disposal of dredged material only.

The proposed transportation of this dredged material for disposing of it in ocean waters is being evaluated to determine that the proposed disposal will not unreasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological systems, or economic potentialities. In making this determination, the criteria established by the Administrator, EPA pursuant to section 102(a) of the ODA (Ocean Dumping Act), will be applied. In addition, based upon an evaluation of the potential effect which the failure to utilize this ocean disposal site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, an independent determination will be made of the need to dispose of the dredged material in ocean waters, other possible methods of disposal, and other appropriate locations.

The dredged material has undergone physical, chemical, and biological testing and has satisfied the criteria for ocean disposal of dredged material as specified in part 227 of the Ocean Dumping Act regulations. It is our preliminary determination that the material is acceptable for disposal at this disposal site.

Additional Information: For further information on the project please contact the project manager Mr. Jack Karalius, Programs & Civil Project Management Branch, Programs Project Management Division, at the return address shown, telephone number (978) 318-8288.

Coordination: The proposed work is being coordinated with the following Federal, State, and local agencies:

Federal

U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
National Marine Fisheries Service

State of Maine

State Planning Office
Maine Department of Environmental Protection
State Historic Preservation Commission

Local

City of Portland
City of South Portland
Portland Dredge Committee of the Waterfront Alliance
Harbor Master

Environmental Impacts: An Environmental Assessment for this work is being prepared and will be made available for review upon request. I have made a preliminary determination that an Environmental Impact Statement for the proposed maintenance dredging is not required under the provisions of the National Environmental Policy Act of 1969. This determination will be reviewed in light of facts submitted in response to this notice.

Federal Consistency with the Coastal Zone Management Program: I find that maintenance dredging of the authorized navigation project is consistent, to the maximum extent practicable, with the applicable management program established as a result of the Coastal Zone Management Act of 1972. The dredging and disposal operation will be conducted, to the maximum extent practicable, in a manner that is consistent with the approved management program.

Other Information:

a. Previous Dredging: The most recent maintenance dredging of the 35-foot Federal channel was done from November 1998 to April 1999 when approximately 409,700 cubic yards of material was dredged and disposed of at the Portland Disposal Site.

b. Alternatives: The proposed work involves maintenance of an existing Federal channel. The only alternative to maintenance dredging is the No Action alternative. This would allow existing conditions to remain and worsen as shoaling continues, hindering navigational access and compromising vessel safety. Regarding disposal alternatives, in conjunction with the Portland Dredge Committee, we reviewed potential disposal sites and determined that no suitable nearby upland sites or combination of sites large enough to accommodate the quantity of material to be dredged and near enough to insure operational feasibility are practicably and economically available. Also, since the material to be dredged consists primarily of fine-grained silt and clay, it is not suitable for beach nourishment. The nearest open water disposal site is the Portland Disposal Site,

which has historically been used for disposal of dredged material.

c. Non-Federal Dredging: It is possible that one or more terminals or businesses may perform maintenance dredging in conjunction with the Federal project. Facility owners within the harbor who may be interested in performing dredging concurrently with this project should be aware that work will require a permit from the Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and, depending on the location of the dredged material disposal, may also require a Corps permit under Section 404 of the Clean Water Act. In order to be disposed of in open water, private dredged material must be determined to be suitable for such disposal.

d. Endangered Species: It is our preliminary determination that the proposed activity will not affect endangered species in the project area. However, several threatened and endangered species have the potential to occur near the proposed disposal area. Consultation will be conducted with the National Marine Fisheries Service and the United States Fish and Wildlife Service to determine that the proposed activity will not significantly effect any species or critical habitat designated as endangered or threatened pursuant to the Endangered Species Act of 1973 (87 Stat. 844).

e. Floodplain Management: In accordance with Executive Order 11988, the Corps of Engineers has determined that the proposed work will not contribute to negative impacts or damages caused by floods.

f. Cultural Resources: The proposed work is maintenance involving previously dredged areas and a previously used disposal site, and is not likely to affect any cultural or archaeological features or resources.

g. Essential Fish Habitat Assessment: It has been determined that the project may have a temporary adverse effect on Essential Fish Habitat (EFH). The project site is contained within areas designated as EFH as defined by the Magnuson-Stevens Fishery Conservation and Management Act and amended by the Sustainable Fisheries Act of 1996 for Federally managed fish species. The U.S. Army Corps of Engineers has assessed the effects that the project is likely to have on EFH and has determined that they will be short-term and localized and that there will be no significant impacts on the designated fisheries resources. The Corps will consult with the National Marine Fisheries Service to ensure that any potential impacts will be minimized.

h. Additional Requirements: The Maine State Planning Office has concurred with our determination of Federal consistency with the State's approved coastal zone management program. In addition, a Water Quality Certification, for disposal of the dredged material, has been approved by the Maine Department of Environmental Protection, under Section 401 of the Clean Water Act of 1977 (P.L. 95-217). The Clean Water Act of 1977 requires that the work comply, to the maximum extent practicable, with State or interstate requirements to control the discharge of dredged or fill material.

The decision whether to perform the work 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 benefits which reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among these are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classification, and the welfare of the people.

Any person who has an interest which may be affected by the dredging and disposal of this dredged material may request a public hearing. The request must be submitted in writing to me within 30 days of the date of this notice and must clearly set forth the interest which may be affected and the manner in which the interest may be affected by this activity.

Please bring this notice to the attention of anyone you know to be interested in this project. Comments are invited from all interested parties and should be directed to me at U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751, ATTN: Jack Karalius, within 30 days of this notice.

20 Feb 2009
Date

for William T. Feir, P.E. Deputy District Engineer
Philip T. Feir
Colonel, Corps of Engineers
District Engineer

Attachments

PERTINENT LAWS, REGULATIONS, AND DIRECTIVES

Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.)

Clean Water Act, as amended (33 U.S.C. 1251 et. seq.)

Code of Federal Regulation, Title 33, Parts 335 through 338

National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347)

Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)

Fish and Wildlife Act of 1956 (16 U.S.C. 472a, et. seq.)

Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g)

Coastal Zone Management Act of 1972 [16 U.S.C. 1456(c)(1) and (2)],

Sections 307(c)(1) and (2)

National Historic Preservation Act of 1966 (16 U.S.C. 470)

Endangered Species Act of 1973 as amended (16 U.S.C. 668aa-668cc)

Clean Air Act, as amended (42 U.S.C. 1221 et. seq.)

Estuary Protection Act (16 U.S.C. 1221 et. seq.)

Federal Water Project Recreation Act, as amended (16 U.S.C. 4601-12 et. seq.)

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 et. seq.)

Magnuson-Stevens Fishery Conservation and Management Act and amended by the

Sustainable Fisheries Act of 1996

Executive Order 11988, Floodplain Management, 24 May 1977

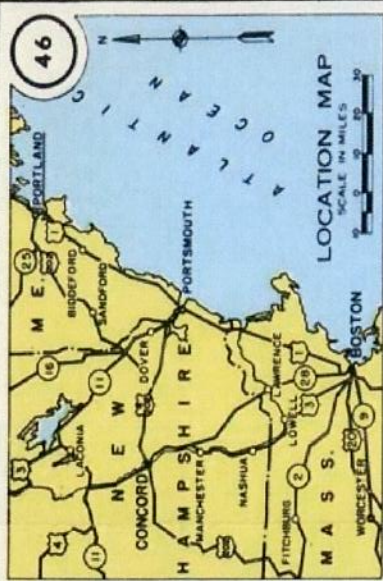
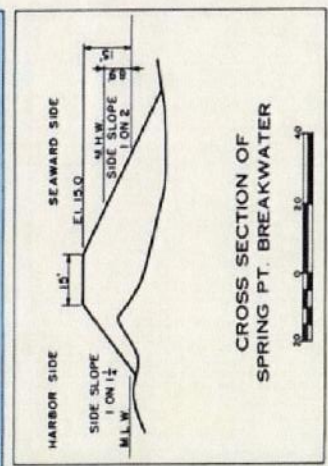
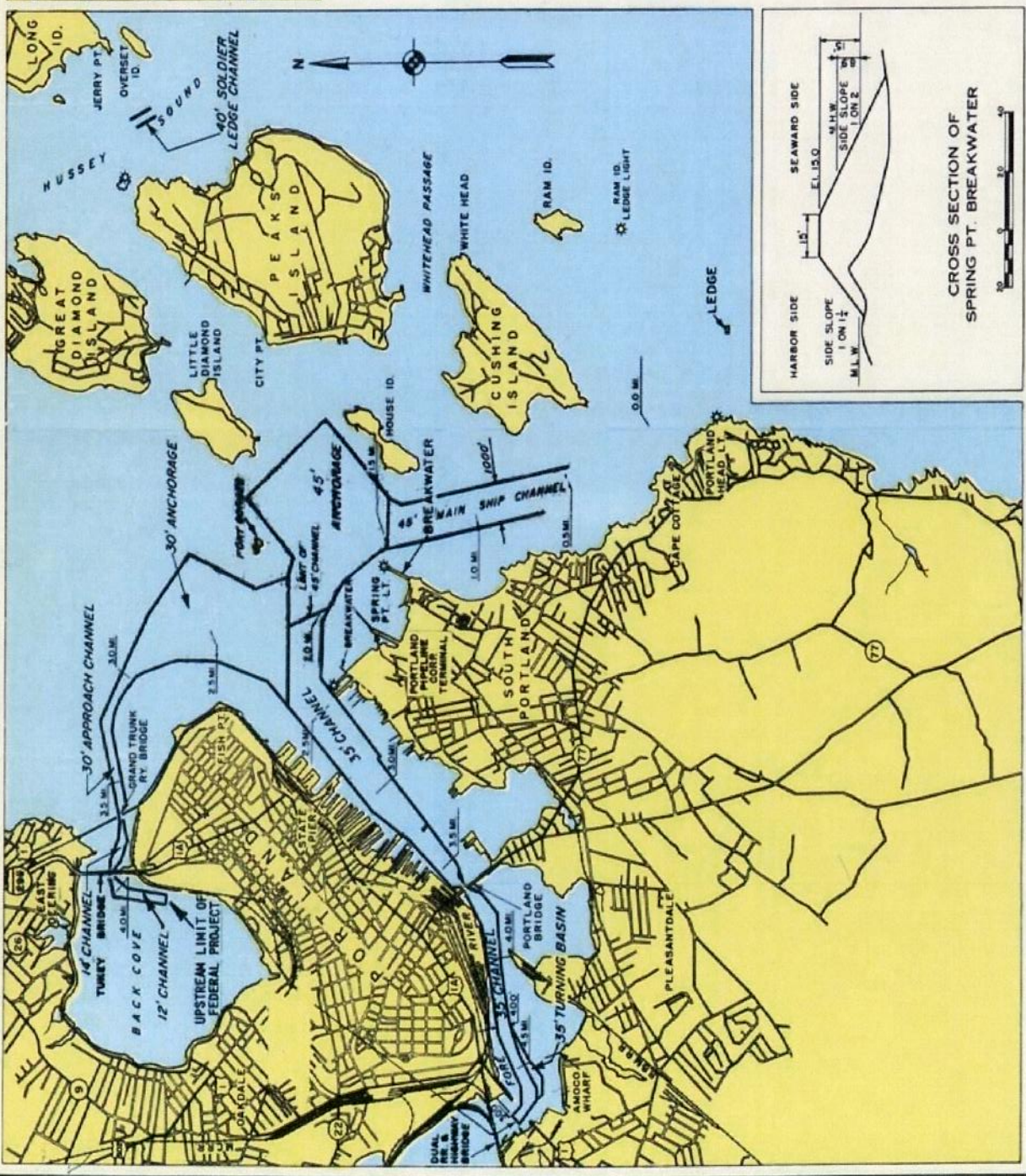
Executive Order 11990, Protection of Wetlands, 24 May 1977

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority

Populations and Low Income Populations, 11 February 1994

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety

Risks, 21 April 1997



BRIDGE CLEARANCES

PORTLAND HARBOR (BASCULE)
 No. 10011
 VERT. 31 FT. M.H.W.

TUKEY BRIDGE
 HOR. 100 FT.
 VERT. 30 FT. M.H.W.

DUAL RR. & HY. FIXED BRIDGE
 HOR. 99 FT.
 VERT. 10 FT. M.A.W.

Attachment No. 2.

PORTLAND HARBOR, MAINE

30 SEPTEMBER 1976

SCALE IN FEET
 1000 0 1000 2000 3000 4000

DEPARTMENT OF THE ARMY
 NEW ENGLAND DIVISION, CORPS OF ENGINEERS
 WALTHAM, MASS.

**Portland Harbor
Maintenance Dredging
Attachment No. 3**

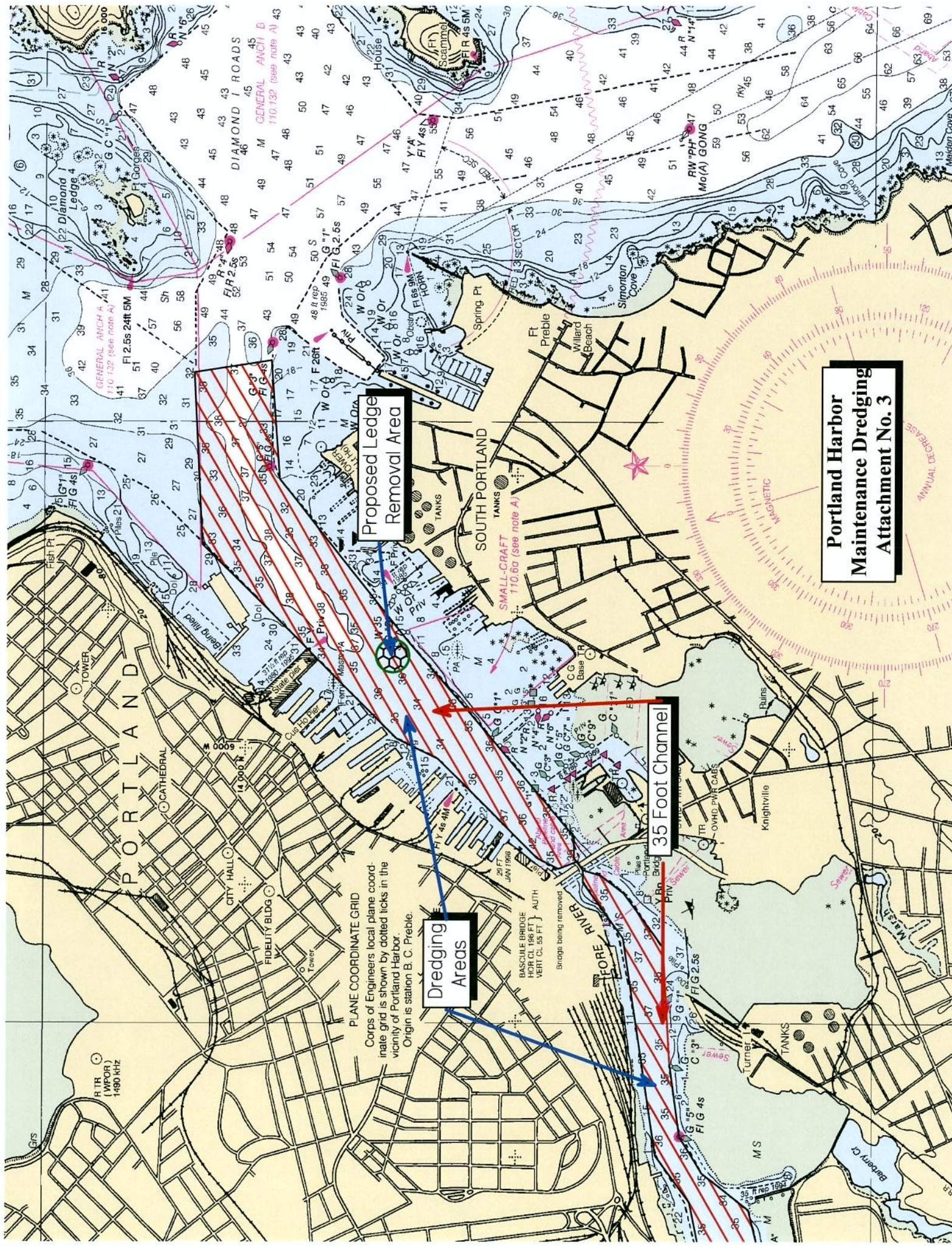
**Proposed Ledge
Removal Area**

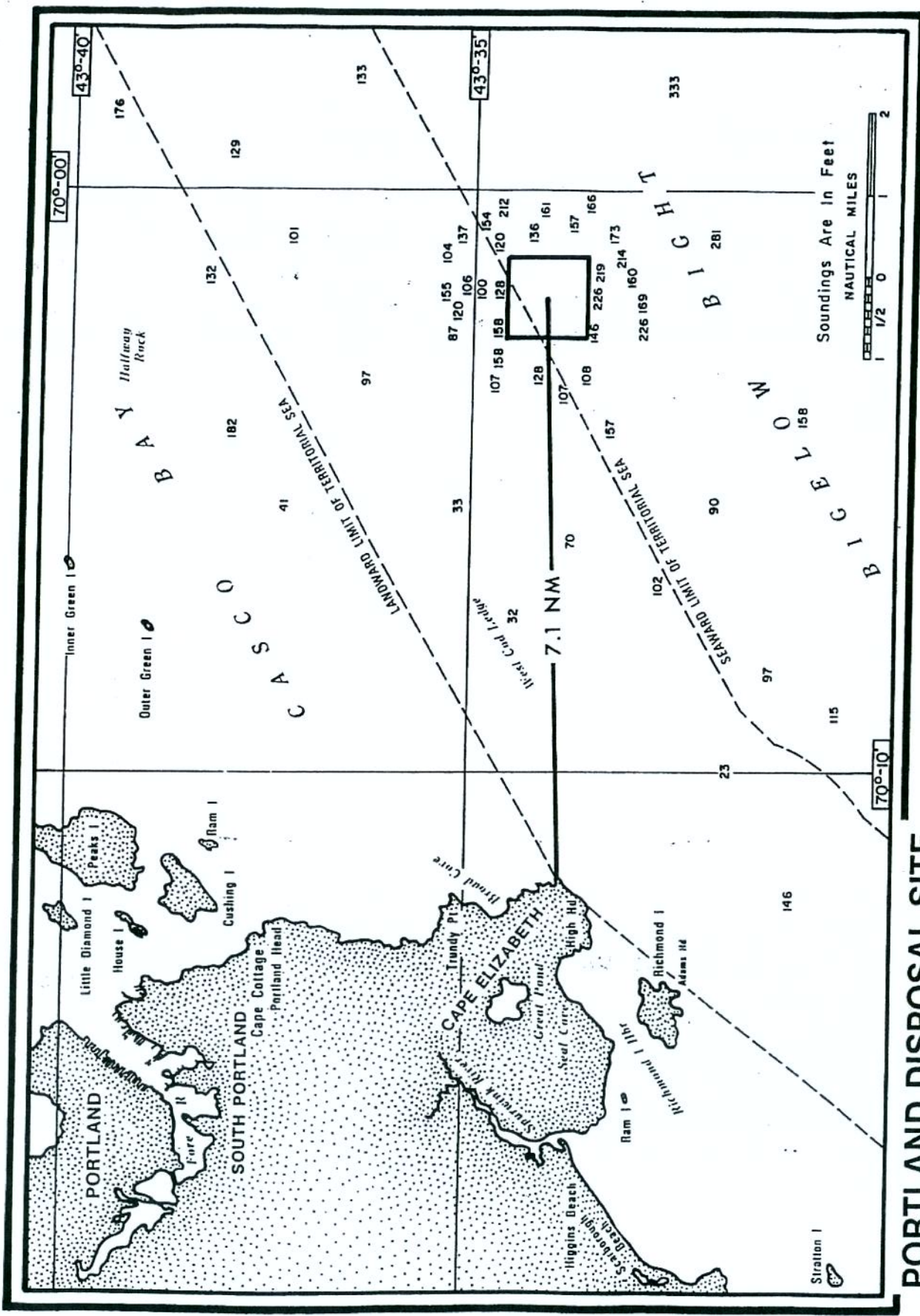
35 Foot Channel

**Dredging
Areas**

PLANE COORDINATE GRID
Corps of Engineers local plane coord-
inate grid is shown by dotted ticks in the
vicinity of Portland Harbor.
Origin is station B. C. Preble.

BASCULE BRIDGE
HIGH CL 196 FT
VERT CL 55 FT } AUTH
Bridges being removed





PORTLAND DISPOSAL SITE

Description: This site is a one nautical mile square area with its center at 43°-34.1' N and 70°-02.0' W and sides running true north-south, east-west. From the center, Halfway Rock Horn bears true 357° at 10,800 yards and West Cod Ledge Lighted Whistle Buoy R "2" bears true 269° at 8,900 yards. Depth Range: 136 to 226 feet MLW. The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project documents. NOTE: The map depicts the disposal site's location in relation to land-marks. It is not intended for use in navigation