



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

Date: **March 24, 2006**

Comment Period Closes: **April 24, 2006**

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## 30 DAY PUBLIC NOTICE

### MAINTENANCE DREDGING OF THE HARBOR OF REFUGE FEDERAL NAVIGATION PROJECT, POINT JUDITH, RHODE ISLAND

Interested parties are hereby notified that the U.S. Army Corps of Engineers, New England District, plans to perform maintenance dredging of the Federal navigation project, involving work in the navigable waters of this District, under the provisions of 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 of the Code of Federal Regulations. Attachment No. 1 lists pertinent laws, regulations, and directives.

**Project Description:** The proposed work involves maintenance dredging of the 15-foot-deep Mean Lower Low Water (MLLW) entrance channel leading into the Harbor; as well as the east and west branch 15-foot-deep MLLW channels and the 10-foot deep MLLW 6.6 acre anchorage within the harbor. The Harbor of Refuge Federal navigation project was originally authorized by the River & Harbor Act of 1890, and further modified in 1892, 1902, 1905, 1907, 1910, 1919, 1948, 1961, 1962, and 1976. (See Attachment 2).

**Character and Purpose of Work:** Natural shoaling processes in the 15-foot-deep entrance channel, the east and west branch channels, the 10-foot-deep anchorage and the 6-foot-deep channel in Point Judith Pond have reduced available depths, making navigation hazardous at lower stages of the tide. Maintenance dredging of approximately 115,000 cubic yards (cy) of sand from approximately 25 acres of the authorized project area will restore the entrance channel, east and west branch channels, the 10-foot-deep anchorage, and shoal areas in Point Judith Pond to authorized dimensions. Dredging will be performed by either a hopper dredge or a mechanical dredge and the dredged material will be disposed of as a beneficial use in the nearshore off the Matunuck beaches in So. Kingstown (approximately 3 miles west of the harbor). The dredging area is shown on Attachment 2 and the disposal area is shown on Attachment 3. The work will take place over a three to four month period in the years in which funds become available.

**Disposal Area Options:** The dredged material consists of clean sand with very little fines (0.1% to 10.3%) based on sampling and testing performed in 2003 and 2004. It is the Corps policy to use dredged material in a beneficial manner if practicable. Our preliminary determination is that the material is suitable for unconfined open water disposal, and thus suitable for disposal in the nearshore waters off of the Matunuck beaches.

**Disposal Area:** The dredged sandy material is proposed to be disposed of beneficially as a nearshore feeder berm off of the nearby Matunuck beaches (approximately 3 miles west of the harbor).

**Additional Information:** Additional information may be obtained from Mr. Michael Walsh, Programs/Civil Project Management Branch, Programs/Project Management Division, at the return address shown, or by email [michael.e.walsh@nae02.usace.army.mil](mailto:michael.e.walsh@nae02.usace.army.mil), or by telephone (978) 318-8586.

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

**Federal:**

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

**State of Rhode Island:**

Department of Environmental Management  
RI Coastal Resources Management Council  
RI Historical Commission

**Towns of So. Kingstown & Narragansett, RI**  
Harbormaster

**Environmental Impacts:** An Environmental Assessment for this work is being prepared and will be 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 Rhode Island's 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. Local Sponsor: The towns of So. Kingstown & Narragansett are the local sponsors for the proposed work.
- b. Previous Dredging: Maintenance dredging of the Point Judith Harbor of Refuge has been performed seven times since 1921. Most recent maintenance dredging of the channel occurred in 1977 when approximately 72,000 cubic yards (cy) of material was removed and side-casted.
- c. Alternate Disposal Methods: Alternate disposal options that have been considered include nearshore disposal, open-ocean disposal, beach disposal, and upland disposal. Upland disposal and open-ocean were not pursued as this would remove the sand from the littoral system. Beach nourishment was originally proposed for either East Matunuck State Beach or Roger Wheeler State Beach. However, these alternatives were rejected by the State due to piping plover concerns. The Corps favors the nearshore disposal site off of the Matunuck beaches as a beneficial use of the clean sand. Hydraulically pumping the material onto the Matunuck beaches would not be practicable because of the costs and construction difficulties associated with this alternative. The proximity of the proposed disposal site to the dredging area renders this alternative cost-effective.
- d. Non-Federal Dredging: Currently no private dredging is being proposed in conjunction with this 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.
- e. Endangered Species: Except for an occasional transient sea turtle or seal, no threatened or endangered species under the jurisdiction of the National Marine Fisheries Service is known to depend on the proposed area of dredging or the disposal area. The Corps will consult with the U.S. Fish and Wildlife Service to ensure that the proposed activity will not significantly affect any endangered or threatened species or critical habitat pursuant to the Endangered Species Act of 1973 (87 Stat. 844).
- f. 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.
- g. Cultural Resources: The proposed work consists only of maintenance, involving a previously dredged area and will not affect any cultural or archaeological features or resources.

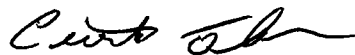
- h. Essential Fish Habitat Assessment: It has been determined that the proposed project may have a temporary adverse effect on Essential Fish Habitat (EFH). The project area is contained within areas designated EFH as defined by the Magnuson-Stevens Fishery Conservation and Management Act and amended by the Sustainable Fisheries Act of 1996 for federally managed fish species. The Army Corps of Engineers has assessed the effects dredging 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 prepare an EFH Assessment to obtain EFH Conservation Recommendations from the National Marine Fisheries Service.

Additional Requirements: A request will be sent to the Rhode Island Coastal Resource Management Council for the State's concurrence with our determination of Federal consistency with the State's approved coastal zone management program. A request will also be sent to the Rhode Island Department of Environmental Management for a Water Quality Certification in accordance with the Clean Water Act of 1977, which 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 that 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 that 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 the U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751, ATTN: Michael Walsh, within 30 days of this notice.



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Curtis L. Thalken  
Colonel, Corps of Engineers  
District Engineer

Attachments

## **Attachment 1**

### **PERTINENT LAWS, REGULATIONS, AND DIRECTIVES**

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

Marine Protection Research and Sanctuaries Act

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



**Attachment 3**  
Map of Disposal site

