



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

PUBLIC NOTICE

Comment Period Begins: May 2, 2023

Comment Period Ends: June 2, 2023

File Number: NAE-2011-1511

In Reply Refer To: Charles Farris

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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 Edgartown, Edgartown Town Hall, 70 Main Street, Edgartown, MA 02539. This work is proposed in Lighthouse Pond at Off N. Water Street, Edgartown, MA 02536. The site coordinates are: Latitude 41.392150 °N, Longitude 70.504785 °W.

The work calls for improvement dredging of 2,620 square yards of sandy material within 2 heavily shoaled areas within Lighthouse Pond to increase the tidal prism within the Pond, improve tidal flushing within the upper Pond, and maintain valuable wildlife habitat and coastal resource areas located within and adjacent to the Pond. This would decrease the level of shoaling within the Pond, increase the tidal prism, and preserve essential wildlife habitat. All dredged materials would be placed above the high tide line. The proposed Tidal Flow Improvement Project would generate approximately 2,620 cubic yards of beach compatible sand for beneficial reuse. Under existing Town permits, dredged sand would be placed on Fuller Street/Lighthouse Beach to expand the footprint of the beach and re-establish a vegetated barrier dune, providing increased storm damage protection while limiting over-wash-driven infilling of Lighthouse Pond.

Materials will be pumped from the dredge through the discharge pipe to a sump pit excavated within the Town's previously permitted nourishment footprint on Fuller Street Beach. The pumped material will be stockpiled and allowed to dewater prior to being spread along the beaches to meet the beach and dune nourishment footprints and elevations as shown on the approved plans. Planting of American beach grass (*Ammophila breviflora*) will occur along the restored dune upon completion of material placement.

The Tidal Flow Improvement Project also calls for the installation of 7,700 square feet of salt marsh plantings, including *S. alterniflora*, *S. patens*, and *D. spicata* to enhance the existing resource area along the eastern shore of Lighthouse Pond. This area was selected for improvement because of its proximity to a historic beach access pathway, which has led to heavy compression of the sediment, preventing natural colonization by salt marsh vegetation. Proposed salt marsh enhancement plantings would be installed in concert with symbolic exclusion (split-rail) fencing, to direct foot traffic away from the edge of the salt marsh. Lastly, informational signboards would be installed to educate the public on the coastal processes impacting Lighthouse Pond, the value of the Pond as wildlife habitat, and the purpose of the Tidal Flow Improvement Project. Salt marsh enhancement plantings would be limited to a 10-15-foot-wide buffer along the edge of the existing salt marsh that is intermittently wetted at high tide. Educational signage would be low-lying, slanted boards, similar to those found at sites throughout the Cape Cod National Seashore. The installation of the salt marsh plantings, fencing, and signage would follow the same time of year restriction as the previously permitted Fuller Street Beach Dune and Beach Restoration Project.

The work is shown on the enclosed plans entitled “Proposed Lighthouse Pond, Tidal Flow Improvement Project” on three sheets, revision date August 18, 2021.”

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.
- ☐ Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408)

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 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.

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). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

This project will impact 3.98 acres of EFH. This habitat consists of estuarine, salt marsh and subtidal habitat. Loss 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. 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

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Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties with 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).

Based on his initial review, the District Engineer has determined that the proposed work may impact one property listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfil requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

The historic structure was located in the Massachusetts Cultural Resource Information System and is a private dwelling located at 9 Starbuck Neck Road.

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 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. We are coordinating with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service on listed species under their jurisdiction and the ESA consultation will be concluded prior to the final decision.

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:

- (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.

COMMENTS

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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 Charles Farris at (978) 318-8336, (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.

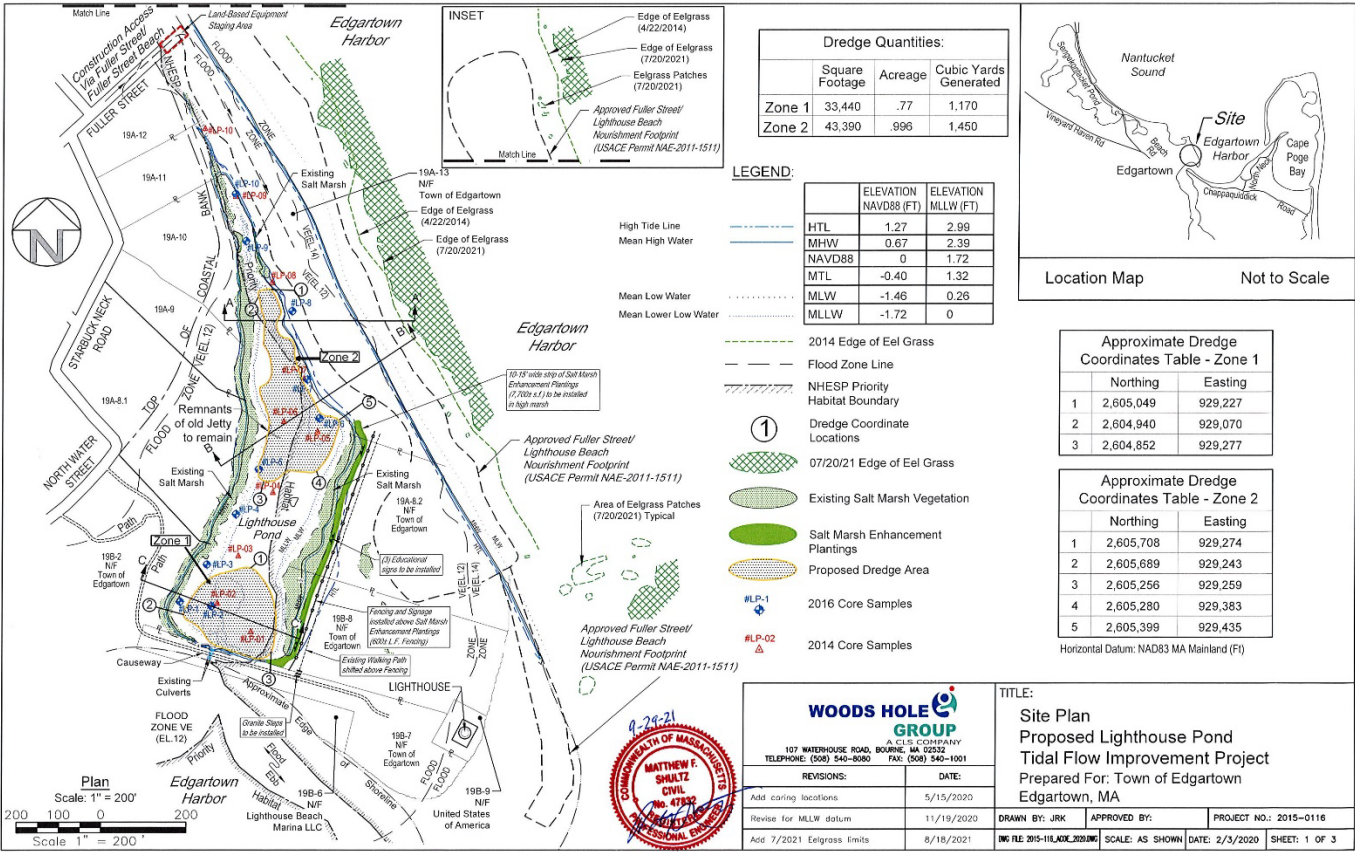
The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.

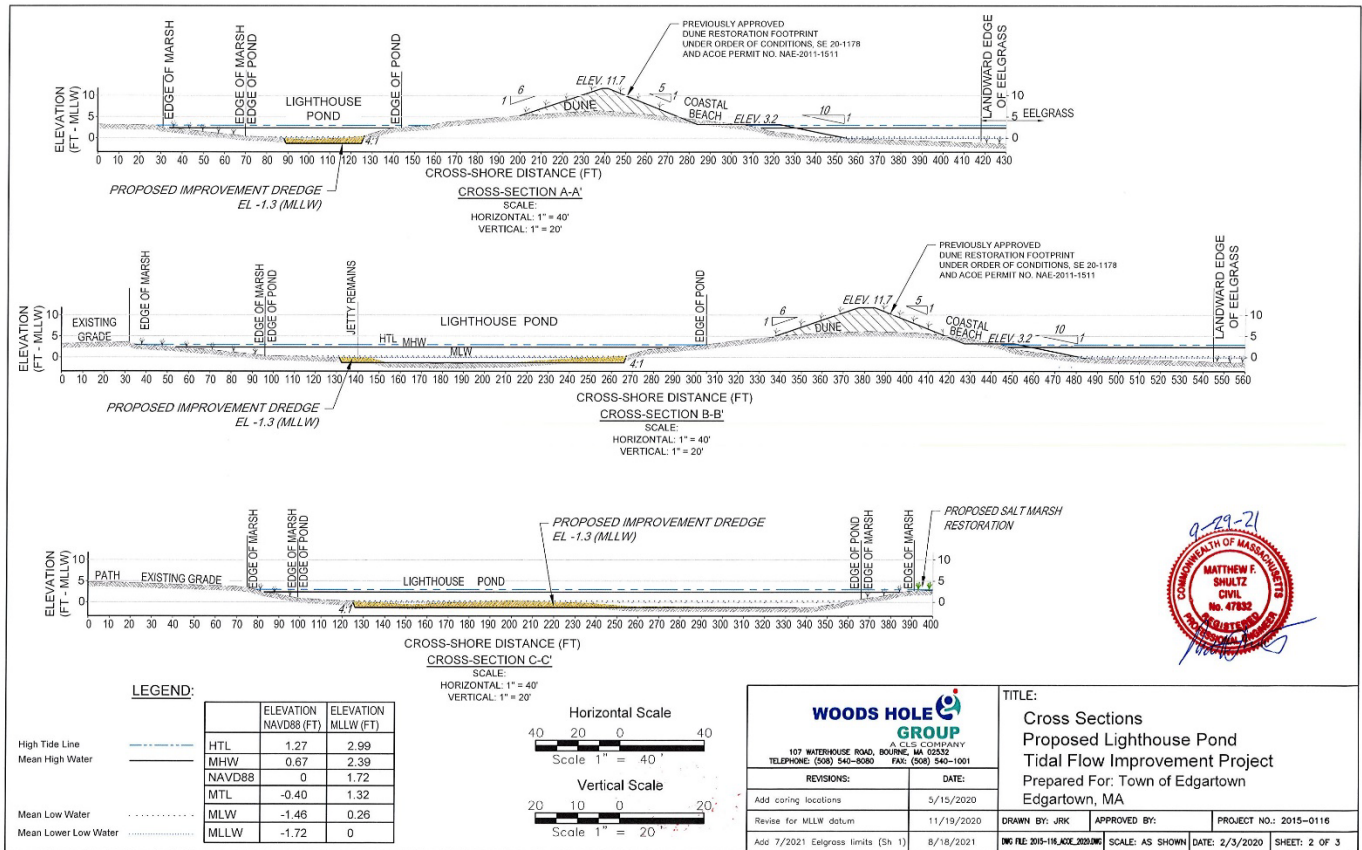
Paul Maniccia

Paul Maniccia
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.



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Permit Plan:

This set of plans is for permitting purposes only. These plans describe the full scope of the project; however, the contractor shall coordinate with Woods Hole Group, Inc. for detailing prior to providing a bid on this project.

General Notes:

1. Performance of work shall be in compliance with the plan and details, the Order of Conditions issued by the Edgartown Conservation Commission or other regulatory agency for the referenced project as described herein.
2. The proposed work includes dredging of Zones 1 and 2 to a depth of -1.3 MLLW, and installation of salt marsh enhancement plantings, exclusion fencing and signage.
3. After removal from Lighthouse Pond, the dredged sand will be beneficially reused for beach and dune enhancement along Fuller Street/Lighthouse Beach. The material shall be regraded to slopes indicated on approved plans for the Fuller Street/Lighthouse Beach dune and beach restoration project, DEP File No. SE 20-1178.
5. Construction access for land-based equipment shall be from Fuller Street and along Fuller Street Beach. Upon completion of work, all disturbed areas shall be re-graded and re-vegetated to match pre-construction conditions.
6. All land-based equipment shall be moved to the contractor staging area at the end of Fuller Street at the end of the work day to avoid the possibility of inundation during normal tidal conditions. No equipment shall be left on the beach or in the active construction area overnight.
7. A post-construction bathymetric survey shall be conducted. Results will be reviewed by Woods Hole Group, Inc. and submitted to permitting agencies following the completion of the work.
8. The contractor shall attend a pre-construction on-site meeting which will be attended by Woods Hole Group, Inc. and representatives of the Edgartown Conservation Commission. The contractor will present to Woods Hole Group, Inc. and the Conservation Commission representative the proposed methods and means to construct the proposed project.
9. The contractor shall not vary from the plans, specifications, Order of Conditions/Permits, or instructions provided at the pre-construction meeting, without first obtaining approval of the Conservation Commission representative and Woods Hole Group, Inc.
10. Prior to construction, the contractor must post the DEP File No. at the entrance to the site. During construction, the contractor must have a copy of the existing Order of Conditions and all associated permits on site at all times.

Salt Marsh Enhancement Planting Note:

A 10-15' wide (7,700± s.f.) area of high marsh will be planted with indigenous salt marsh vegetation under the supervision of Woods Hole Group, Inc. plug plantings including *S. alterniflora*, *S. patens* and *D. spicata* to be installed in a 12-inch matrix, as indicated on sheet 1 of 3.

Survey Notes:

Bathymetric and Topographic survey were conducted in November 2018 by Woods Hole Group.

Datum Notes:

Elevations are referenced to Mean Lower Low Water (MLLW) datum.

Flood Note:

Flood Zones VE12 and VE14 from FEMA Firm Panel #250069 0119J, Dated July 20, 2016.

References:

Assessors Map 19A, Parcels 13 and 8.2, Map 19B, Parcels 7 and 8.

Dredging Notes:

1. Bathymetric contours are in feet relative to MLLW.
2. Bathymetric contours depicted on these plans represent results of the survey made on the date indicated and are representative of existing conditions at the time.
3. Proposed dredging areas shown for tidal flow improvement represent a total area of 75,323s.f. (1.73 acres), and will generate 2,569± c.y. of beneficial reuse material to be placed on Fuller Street/Lighthouse Beach.
4. Proposed improvement dredging areas are to be dredged to -1.3 MLLW.
5. Dredge equipment to be transported by barge into Edgartown Harbor and transferred by crane over causeway to/from Lighthouse Pond.
6. Dredged sand will be piped to Lighthouse Beach, dewatered, stockpiled and graded within the beach and dune enhancement footprint indicated on approved plans for the Fuller Street/Lighthouse Beach dune and beach restoration project, DEP File No. SE 20-1178, Chapter 91 Permit No. 12559, WQC X228327, and ACOE Permit No. NAE-2011-1511.
7. Constructed dune shall be planted with American Beach Grass in a 12-inch matrix, 2-3 culms per hole as indicated on approved plans for the Fuller Street/Lighthouse Beach dune and beach restoration project, DEP File No. SE 20-1178.

WOODS HOLE GROUP <small>A U.S. COMPANY</small> <small>107 WATERHOUSE ROAD, BOURNE, MA 02532</small> <small>TELEPHONE: (508) 540-8080 FAX: (508) 540-1001</small>		TITLE: Project Notes Proposed Lighthouse Pond Tidal Flow Improvement Project Prepared for: Town of Edgartown Edgartown, MA			
REVISIONS: Add coring locations Revise for MLLW datum Add 7/2021 Eelgrass limits (Sh 1)		DATE: 5/15/2020 11/19/2020 8/18/2021		DRAWN BY: JRK APPROVED BY: DATE: 2/3/2020 SCALE: AS SHOWN SHEET: 3 OF 3	
				PROJECT NO.: 2015-0116	