



## PUBLIC NOTICE

**Comment Period Begins:** February 20, 2024  
**Comment Period Ends:** March 21, 2024  
**File Number:** NAE-2023-02279  
**In Reply Refer to:** Mr. Taylor Bell  
**Phone:** (978) 318-8952  
**Email:** Taylor.m.bell@usace.army.mil

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### **SUBJECT:**

The District Engineer, U.S. Army Corps of Engineers, New England District (USACE), has received a complete mitigation banking prospectus for the establishment of a commercial mitigation bank referred to as the Great Herring Pond Mitigation Bank pursuant to 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (Federal Register: April 10, 2008, effective June 9, 2008).

### **MITIGATION BANK SPONSOR:**

Coastal Restoration Group, L.L.C.  
P.O. Box 5266  
Nantucket, Massachusetts 02554

### **LOCATION:**

The Great Herring Pond Mitigation Bank is located near the community of Plymouth, in Plymouth County, Massachusetts (near NAD83 latitude 41.795062°N longitude - 70.559399°W). The restoration site is located adjacent to the Great Herring Pond on the Sagamore, MA USGS 7.5' topographic quadrangle map. The EPA Level III Ecoregion for this project is 84, Atlantic Coastal Pine Barrens.

### **PURPOSE:**

Coastal Restoration Group, L.L.C. is proposing to establish a 5.3 acre commercial wetland mitigation bank. The mitigation bank would generate wetland compensatory mitigation credits for purchase by Department of Army permit applicants to fulfill compensatory mitigation requirements for wetland impacts subject to USACE regulatory authorities. During permit evaluations, USACE approves or disapproves an applicant's use of bank mitigation credits on a case-by-case basis.

The service areas for the Great Herring Pond Mitigation Bank site correspond to coastal Massachusetts, and tidal and non-tidal Rhode Island, where wetland habitat exists. This service area contains similar ecoregions with similar ecological functions provided by these resources. The Great Herring Pond Mitigation Bank lies within the Cape Cod watershed (HUC 01090002) where there are no existing mitigation banks. The proposed geographic service area includes the Charles watershed (01090001), the Narragansett watershed (01090004), and the Housatonic watershed (01090005).

**GENERAL INFORMATION:**

Mitigation banks are defined as a site, or suite of sites, where aquatic resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by Department of the Army (DA) permits pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. In general, units of restored, established, enhanced or preserved wetlands or streams are expressed as “credits” which may subsequently be withdrawn to offset “debits” incurred at a permitted project site. In this way, a permit requirement to provide compensatory mitigation can be transferred to the mitigation bank sponsor. The operation and use of mitigation banks are governed by an approved mitigation banking instrument (MBI). The MBI is the legal document for the establishment, operation and the use of a mitigation bank. The sponsor would be responsible for the successful development of the mitigation bank including monitoring and reporting requirements.

A group of federal and state regulatory and resource agency representatives known as the Interagency Review Team (IRT) would oversee the establishment and management of the bank. The IRT is chaired by USACE. The primary role of the IRT is to facilitate the establishment of the mitigation bank through the development of a MBI. The IRT will review the prospectus, instrument, and other appropriate documents and provide comments to the USACE.

USACE approves or disapproves the use of the bank for specific projects pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. USACE provides no guarantee that any individual or general permit would be authorized in order to use the bank for compensation.

**PROJECT DESCRIPTION:**

The goal of the Great Herring Pond Mitigation Bank is to restore the historic cranberry bog to a fully functioning emergent wetland. The primary mitigation action will be wetland re-establishment. This action will include restoring the hydrology, soils, and vegetation across the site. Churning the site soil to expose and restore the natural peat and seed bed, which is currently below the compacted cranberry bog sand, and filling the drainage ditches will enable the natural wetland conditions to be restored.

The wetland restoration design will use a combination of grading and planting approaches for proposed restoration activities. Native wetland plants are expected to naturally repopulate the area from the buried seedbed that will be exposed, allowing key ecological functions to improve. The prospectus also outlines transplanting entire blocks of vegetation with several inches of the original wetland soil substrate from the impact areas.

The mitigation areas will be demarcated with signage and restrictions are expected to be placed on MassDEP maps illustrating restricted areas. The prospectus outlines that a Conservation Easement would serve as the site protection instrument for the project

Restored wetlands are proposed to be credited at least a 1:1 or 100% ratio for the Bank site, based on the proposed manipulation of the physical, chemical, or biological characteristics of the site with the goal of returning natural/historic functions to a former or degraded aquatic resource.

A copy of the complete prospectus can be found on RIBITS in the cyber repository here: [https://ribits.ops.usace.army.mil/ords/f?p=107:10:::::P10\\_BANK\\_ID:6745](https://ribits.ops.usace.army.mil/ords/f?p=107:10:::::P10_BANK_ID:6745)

A hard copy of the complete prospectus will be provided if requested.

### **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). EFH describes waters and substrate necessary for fish to spawn, breed, feed, or grow to maturity.

The District Engineer has made a preliminary determination that there will be no impacts to EFH as the project area is outside of EFH.

### **NATIONAL HISTORIC PRESERVATION ACT:**

Based on USACE's initial review, the proposed activity would not affect historic properties. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the review process.

### **ENDANGERED SPECIES CONSULTATION:**

The USACE is reviewing the applications 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. This review 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

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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.

### **EVALUATION:**

After the end of the comment period, the district engineer will review all comments received and make an initial determination as to the potential of the proposal to provide compensatory mitigation for activities authorized by DA permits. This determination 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, must be balanced against its reasonably foreseeable detriments. Factors relevant to the proposal will be considered including conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

### **COMMENTS:**

The USACE is soliciting comments from the public, federal, state, and local agencies and officials, Native Tribes, and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permit if needed for these proposals. 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, and to determine the need for a public hearing and gauge the overall public interest of the proposed activity.

All comments received will be available for public review in their entirety and will be considered a matter of public record. 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. Taylor Bell at [taylor.m.bell@usace.army.mil](mailto:taylor.m.bell@usace.army.mil), (978) 318-8952, (800) 343-4789, or (800) 362-4367.

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Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the modification. Requests for a public hearing shall specifically state the reason(s) 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. Copies of letters of objection will be forwarded to the applicant. Typically, the USACE will request that the applicant contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**

Stephen V. Rochette  
Chief, Technical Support Branch  
Regulatory Division

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Please contact Ms. Tina Chaisson at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil) or (978) 318-8058 if you would like to be removed from our public notice mailing list.

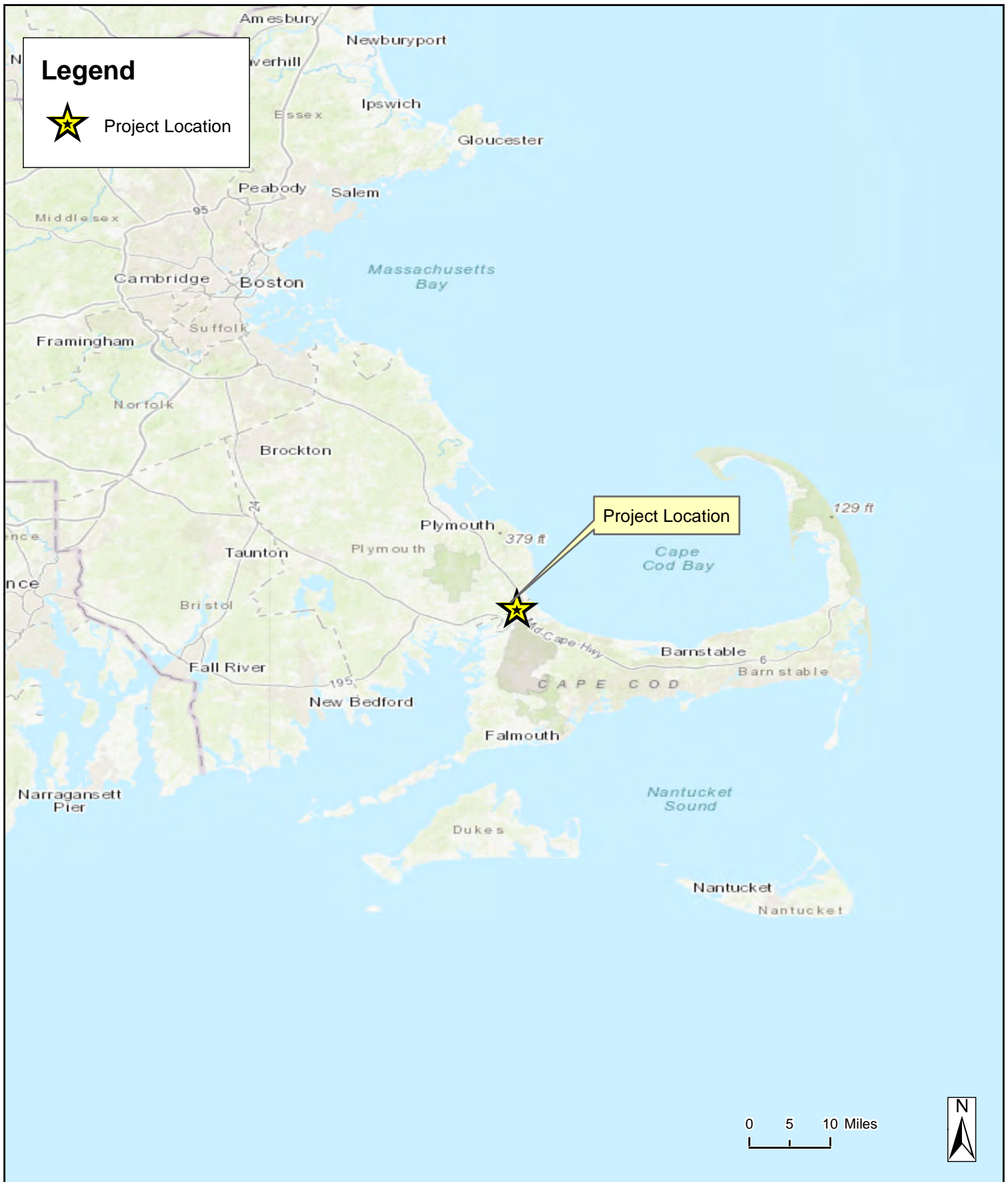


FIGURE 1: PROJECT LOCATION MAP



**US Army Corps  
of Engineers**

PROJECT NAME: GREAT HERRING POND MITIGATION BANK
PROJECT LOCATION: PLYMOUTH, MASSACHUSETTS
PREPARED FOR: UNITED STATES ARMY CORPS OF ENGINEERS
USACE#: NAE-2023-Pending
WPT#: 2023-70
PRINT DATE: 08/09/2023



**WAYPOINT** LLC



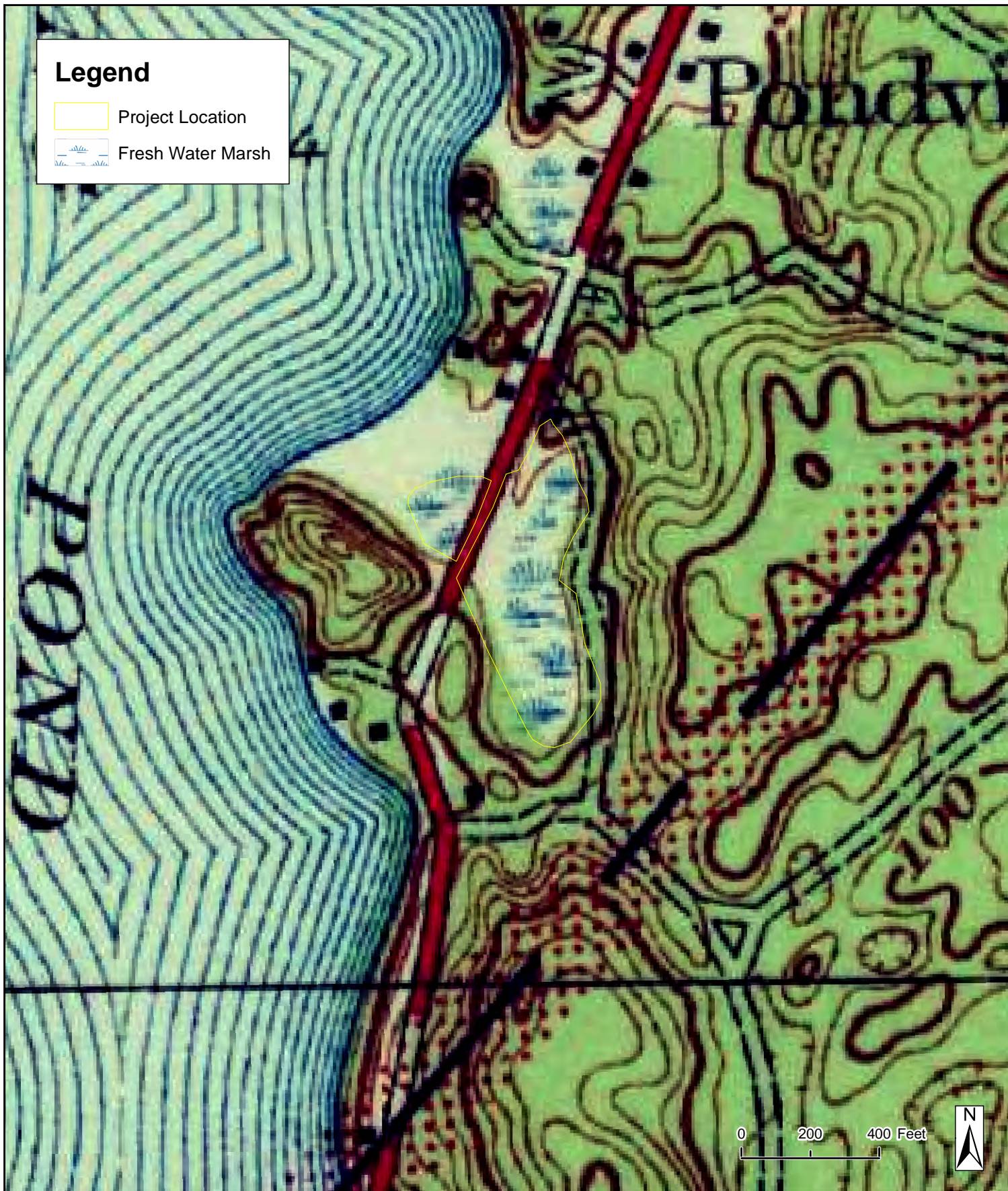


FIGURE 2. APPROXIMATE PROJECT BOUNDARY AND HISTORIC FRESH WATER MARSHES ON THE 1940 SAGAMORE, 7.5' USGS TOPOGRAPHIC QUADRANGLE



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of Engineers

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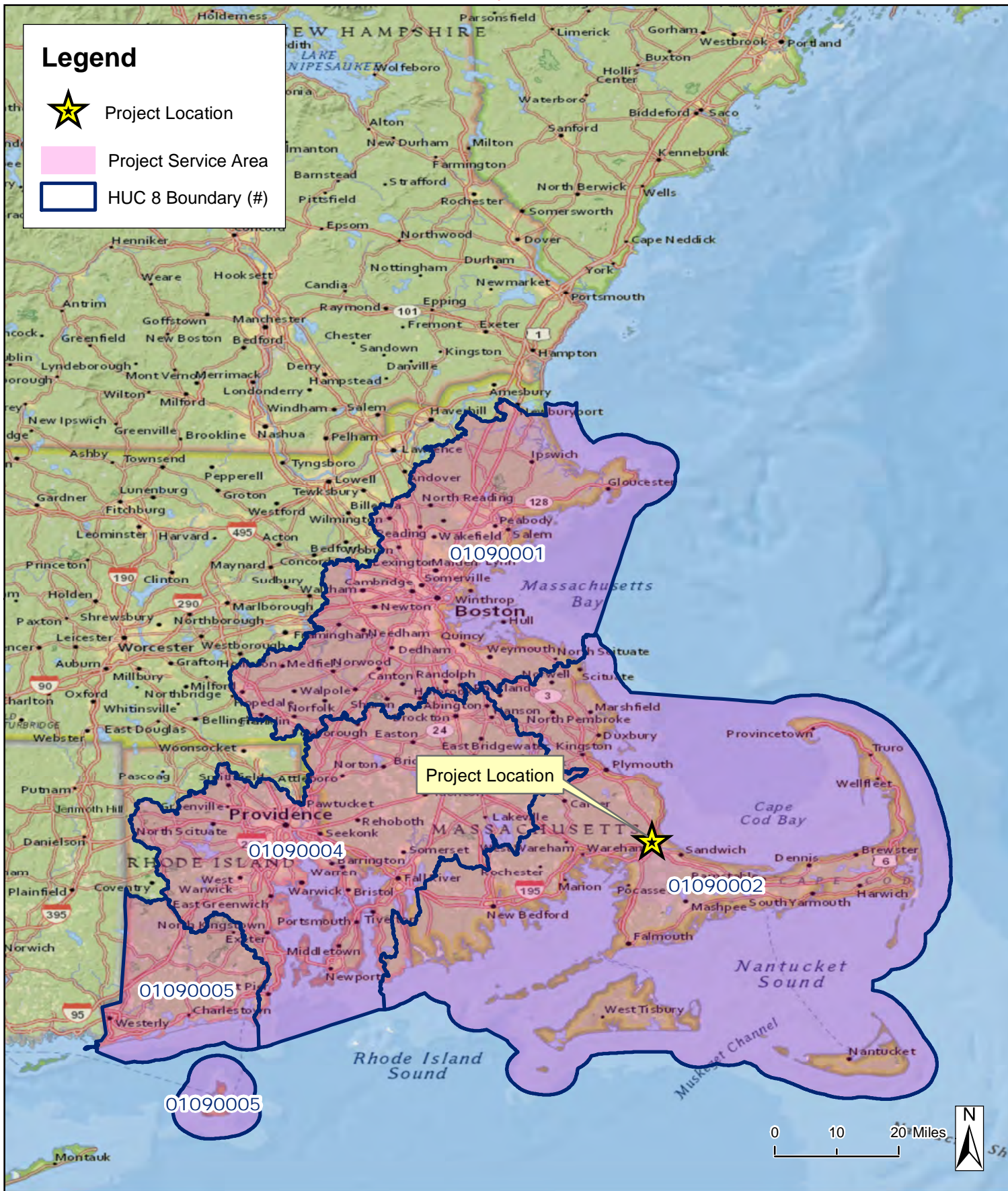


FIGURE 3: SERVICE AREAS MAP



 <p><b>US Army Corps of Engineers</b></p>	PROJECT NAME: GREAT HERRING POND MITIGATION BANK	 <p><b>WAYPOINT</b><sub>LLC</sub></p>
	PROJECT LOCATION: PLYMOUTH, MASSACHUSETTS	
	PREPARED FOR: UNITED STATES ARMY CORPS OF ENGINEERS	
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PRINT DATE: 10/31/2023		





FIGURE 4. PROPOSED RESTORATION ON THE 2021 USGS ORTHOIMAGE



US Army Corps  
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PRINT DATE: 11/06/2023



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