

From: [Valiton, Brian E NAE](#)
To: [Sheeringer, Paul J NAE](#)
Subject: FW: New Bedford Harbor Development Commission - Open-water Disposal of Clean CAD material at Cape Cod Bay Disposal Facility (NAE-2007-2709) - November 2012 MGP
Date: Monday, May 21, 2012 3:04:17 PM
Attachments: [2108_001.pdf](#)

Classification: UNCLASSIFIED
Caveats: NONE

-----Original Message-----

From: pats [<mailto:REG-Canon@usace.army.mil>]
Sent: Friday, November 04, 2011 1:40 PM
To: Valiton, Brian E NAE
Subject: Attached Image

Classification: UNCLASSIFIED
Caveats: NONE



DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO:
ATTENTION OF:

November 4, 2011

Regulatory Division
CENAE-R-PEA
File Number: NAE-2007-2709

Ms. Kristin Decas
City of New Bedford – Harbor Development Commission
52 Fisherman's Wharf
New Bedford, Massachusetts 02745

Dear Ms. Decas:

We have reviewed the application, submitted on your behalf by Apex Companies, LLC, to dispose of approximately 750,000 cubic yards of clean dredged/excavated sediments (consisting of silt, sand and some gravel parent material underlying the surficial human impacted materials) from the harbor bottom in New Bedford Harbor at the area designated as "North of Pope's Island – Area of Potential CAD Cells". This disposal operation will occur in the waters of Cape Cod Bay at the Cape Cod Bay Disposal Site (CCBDS). This application is only for the disposal of the material at the CCBDS that will be excavated from the referenced area of New Bedford Harbor to create the CAD Cells. This is because the dredging/excavation itself is authorized under the Record of Decision (ROD) for the New Bedford Harbor Superfund Site Upper and Lower Harbor Operable Unit developed in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended, 42 U.S.C. Section 9601 et. seq., and is not subject to Corps of Engineers approval. The location of the CCBDS is shown on the attached drawing.

We reviewed test results from the proposed dredging/excavation of an area of 8.3 acres identified on the drawings as the Area of Potential CAD Cells. Our understanding is that the surficial material from the CAD Cell 3 excavation will be dredged and set aside for disposal in an existing CAD cell. The test results indicate that the surficial layer averages approx. 2 feet in thickness and therefore the top 2 feet should be stored for disposal in the completed CAD cell or placed in an existing CAD cell that is not yet at capacity.

Based on the information you have provided, we have determined that the proposed discharge of dredged material into waters of the United States (Cape Cod Bay), will have only minimal individual or cumulative environmental impacts. Therefore, this disposal activity is authorized as a Category 2 activity under the attached Federal permit known as the Massachusetts General Permit (GP). This work must be performed in accordance with the terms and conditions of the GP and also in compliance with the following special conditions:

1. The Coast Guard, Sector Southeastern New England, Waterways Management Division, (401) 435-2351, shall be notified, at least ten working days in advance of the intended start date, of the location and estimated duration of the dredging and disposal operations. An alternate contact is the Coast Guard Command Center, Woods Hole, (508) 457-3211.

2. Except when directed otherwise by the Corps for site management purposes, all disposal of dredged material shall adhere to the following:

a. The permittee shall release the dredged material at a specified set of coordinates within the disposal site with the scow at a complete halt.

b. When a disposal buoy is present at the specified coordinates, disposal shall occur with the side of the scow no closer than 100 feet and no greater than 200 feet from the buoy to minimize collisions with the buoy.

These requirements must be followed except when doing so will create unsafe conditions because of weather or sea state, in which case disposal with the scow moving only fast enough to maintain safe control (generally less than one knot) is permitted. Disposal is not permitted if these requirements cannot be met due to weather or sea conditions. In that regard, special attention needs to be given to predicted conditions prior to departing for the disposal site.

3. Silent Inspector System Requirements

a. Every discharge of dredged material at the disposal site requires monitoring by the contractor. This disposal monitoring of dredging projects must be performed using the Dredging Quality Management (DQM) system software and hardware system [formerly Silent Inspector (SI)] developed by the Corps. The DQM system must have been certified by the Corps within a year of the disposal activity. See the National DQM Support Center site <https://si.usace.army.mil> for additional DQM information. Questions regarding certification should be addressed to the DQM Point of Contact at the Corps New England District [Norm Farris, (978) 318-8336].

b. The permittee is responsible for ensuring that the system is operational throughout the project and that project data are submitted to the National DQM Support Center in accordance with the specifications provided at the aforementioned website. If any component of the system is inoperable, disposal may not take place unless otherwise authorized by the Corps New England District DQM Point of Contact.

c. The DQM system used by the permittee must be capable of providing the information necessary for the Scow Monitoring Profile Specification. The permittee is also responsible to provide the Corps (see below for submittal information) with a record of estimated barge volume for each trip. If barge volume information is not provided through the DQM system utilized, the permittee must submit a weekly report to Corps that provides estimated volume (cubic yards), date and disposal time for each trip. The data collected by the DQM system shall, upon request, be made available to the Corps.

d. For the initiation of disposal activity and any time disposal operations resume after having ceased for one month or more, the permittee or the permittee's representative must notify the Corps at least ten working days before the date disposal operations are expected to begin or resume. See below for contact information. The information to be provided in this

notification is: permit number, permittee name, address and phone number, phone number of the dredging contractor, name, address and phone number of towing contractor, estimated dates dredging is expected to begin and end, name of all disposal vessels to be employed in the work, scow capacities in cubic yards, copies of the scow certification documents, name of disposal site, and estimated volume of material to be dredged. **Disposal operations shall not begin or resume until the Corps issues a letter authorizing the initiation or continuation of open-water disposal.** The letter will include disposal point coordinates to use for this specific project at that time. These coordinates may differ from those specified for other projects using the same disposal site or even from those specified earlier for this project. It is not necessary to wait ten days before starting disposal operations. They may start as soon as this letter is issued.

4. If any material is released beyond the limits specified in this permit, the Captain or the permittee must notify the Corps immediately by phone (see below for contact information). Information provided shall include disposal coordinates, permit number, volume disposed, date and time of disposal, circumstances of incident, disposal vessel name, name of caller, and phone number of caller. If no person is reached at the number above, a voice message with the relevant information should be provided. In addition, a detailed written report must be provided to the Corps within 48 hours following any such incident.

5. Unless otherwise stated, all submittals and coordination related to these special conditions shall be submitted via: a) MAIL: PATS Branch - Regulatory Division, Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751, b) EMAIL: charles.n.farris@usace.army.mil; or c) FAX: (978) 318-8303. Direct dredge related questions to (978) 318-8336 or (978) 318-8338. Documents which are not addressed in this manner may not reach their intended destination and do not comply with the requirements of this permit.

6. Disposal of dredged material at the Cape Cod Bay Disposal Site (CCBDS) shall not occur between January 1 and May 15, of any year, in order to protect right whales.

7. A marine mammal/turtle observer approved by National Marine Fisheries Service (NMFS) shall be present on the towing vessel for all disposal activities.

8. In the event that marine mammals or turtles are sighted within 1,500 feet of the specified disposal location, the tug captain and observer shall abide by the following applicable disposal procedures:

- a. If the animals are sighted within 1,500 feet of the specified disposal location, note species, number of animals, direction of travel, and behavior (feeding, in transit, etc.).
- b. If the animals are within 1,500 feet of the specified disposal location and appear to be moving away from it, wait until they have cleared the specified disposal location by 1,500 feet and then proceed with disposal at the specified disposal location.
- c. If the animals are within 1,500 feet of the specified disposal location and appear to be remaining stationary, or are outside 1,500 feet but appear to be moving towards the

specified disposal location, proceed to the alternate disposal location, as specified in the Corps letter authorizing the initiation or continuation of open-water disposal.

9. If the disposal occurs in darkness or otherwise limited visibility, the tug shall employ its searchlight for the benefit of the observer beginning 2,000 feet from the disposal location.

10. Under no circumstances shall disposal occur within 1,500 feet of a sighted marine mammal or turtle.

11. The observer shall document each trip using the sighting log form that the Corps will supply when disposal coordinates are specified.

The Corps of Engineers has consulted with the National Marine Fisheries Service (NMFS) regarding the effects of your project on Essential Fish Habitat (EFH) as designated under the Magnuson-Stevens Fishery Conservation and Management Act. The NMFS has not provided EFH conservation recommendations.

You are responsible for complying with all of the GP's requirements. Please review the attached GP carefully, in particular the GP conditions beginning on Page 5, to familiarize yourself with its contents. You should ensure that whoever does the work fully understands the requirements and that a copy of the permit document and this authorization letter are with the towing vessel when disposal operations are underway.

This determination becomes valid only after the Massachusetts Department of Environmental Protection (MassDEP) issues or waives Water Quality Certification (WQC) as required under Section 401 of the Clean Water Act. In the event the DEP denies the 401 WQC, this determination becomes null and void. The address of the MassDEP Regional office for your area is provided in the attached GP.

Your project is located within, or may affect resources within the coastal zone. The Massachusetts Office of Coastal Zone Management (CZM) has already determined that no further Federal Consistency Review is required.

This GP expires on January 21, 2015. Activities authorized under this GP that have commenced (i.e., are under construction) or are under contract to commence before this GP expires will have until January 21, 2016 to complete the activity under the terms and general conditions of the current GP. For work within Corps jurisdiction that is not completed by January 21, 2016, you will need to reference any reissued GP to see if your project is still authorized under Category 1 (no application required), or Category 2 (application required). If it is no longer authorized you must submit an application and receive written authorization before you can continue work within our jurisdiction. Please contact us immediately if you change the plans or construction methods for work within our jurisdiction. This office must approve any changes before you undertake them.

This authorization requires you to complete and return the attached Work Start Notification Form to this office at least two weeks before the anticipated starting date. You must also complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work.

This authorization presumes that the disposal operation as described above is in waters of the U.S. Should you desire to appeal our jurisdiction, submit a request for an approved jurisdictional determination in writing to this office.

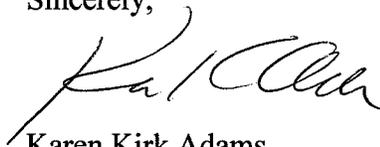
This permit does not obviate the need to obtain other federal, state, or local authorizations required by law, as listed on Page 2 of the GP. Performing work not specifically authorized by this determination or failing to comply with any special conditions provided above or all the terms and conditions of the GP may subject you to the enforcement provisions of our regulations.

As of the time of issuance of this general permit authorization letter, we are also reviewing your simultaneous request to dispose of this same excavated material at the Rhode Island Sound Disposal Site (RISDS) that was authorized for disposal of suitable clean material. The RISDS is closer to New Bedford Harbor than the CCBDS, does not necessitate traversing the Cape Cod Canal, and does not have as many limitations on its use as the CCBDS. Therefore, the RISDS is more preferable to you. However, in case issues arise that prevent the timely issuance of approval for the RISDS or in case the approval is granted and subsequent unanticipated actions or events prevent the use of the RISDS this separate approval for disposal at the CCBDS (under the same file number) is being issued.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at <http://per2.nwp.usace.army.mil/survey.html>

Please contact Mr. Brian Valiton, of my staff at 978-318-8166 if you have any questions.

Sincerely,



Karen Kirk Adams
Chief, Permits & Enforcement Branch
Regulatory Division

Attachments
Copies Furnished:

Ed Reiner, U.S. EPA, Region 1, Boston, Massachusetts, reiner.ed@epa.gov
Christopher Boelke, National Marine Fisheries Service, Gloucester, Massachusetts,
christopher.boelke@noaa.gov

Elizabeth F. Kouloheras, DEP SERO, Wetlands and Waterways, Lakeville, Massachusetts,
c/o lisa.ramos@state.ma.us (DEP Permit # 10335)

Ken Chin, Mass. DEP, One Winter Street, Boston, Massachusetts 02108

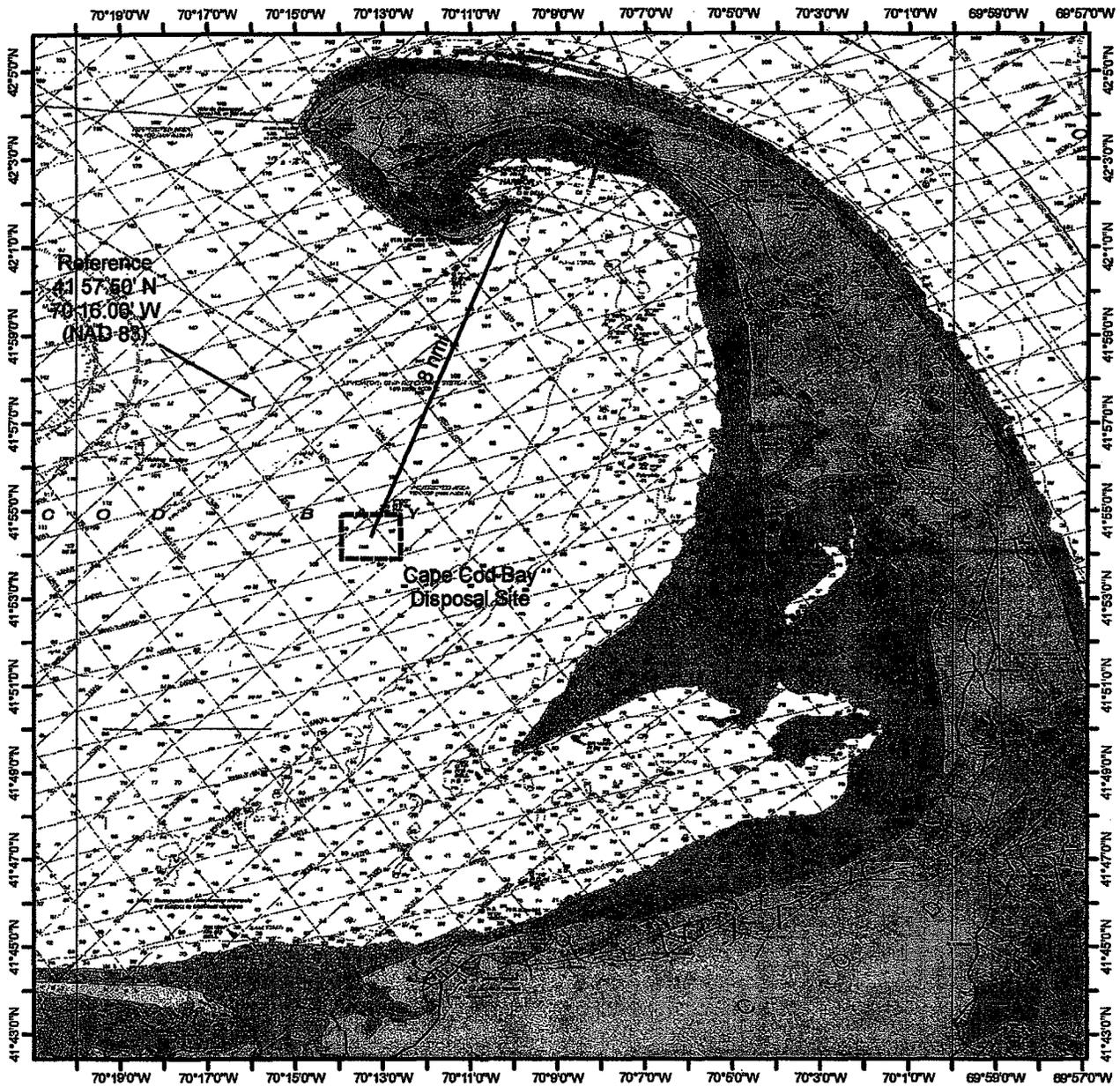
Robert Boeri, Coastal Zone Management, Boston, Massachusetts, Robert.Boeri@state.ma.us

Steve Pothier, First Coast Guard District (dpw-2), Boston, Massachusetts,
steven.r.pothier@uscg.mil

Chris Morris, Apex Companies, LLC, 184 High Street, Suite 502, Boston, Massachusetts 02110

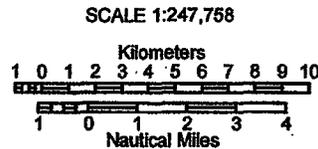
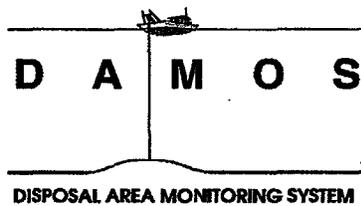
Edward LeBlanc, U.S. C.G., Marine Safety Office, 20 Risho Avenue, East Providence, RI
02914-1208

Sarah Porter, New Bedford Conservation Commission, 133 William Street, New Bedford,
Massachusetts 02744

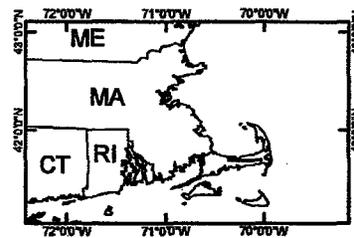


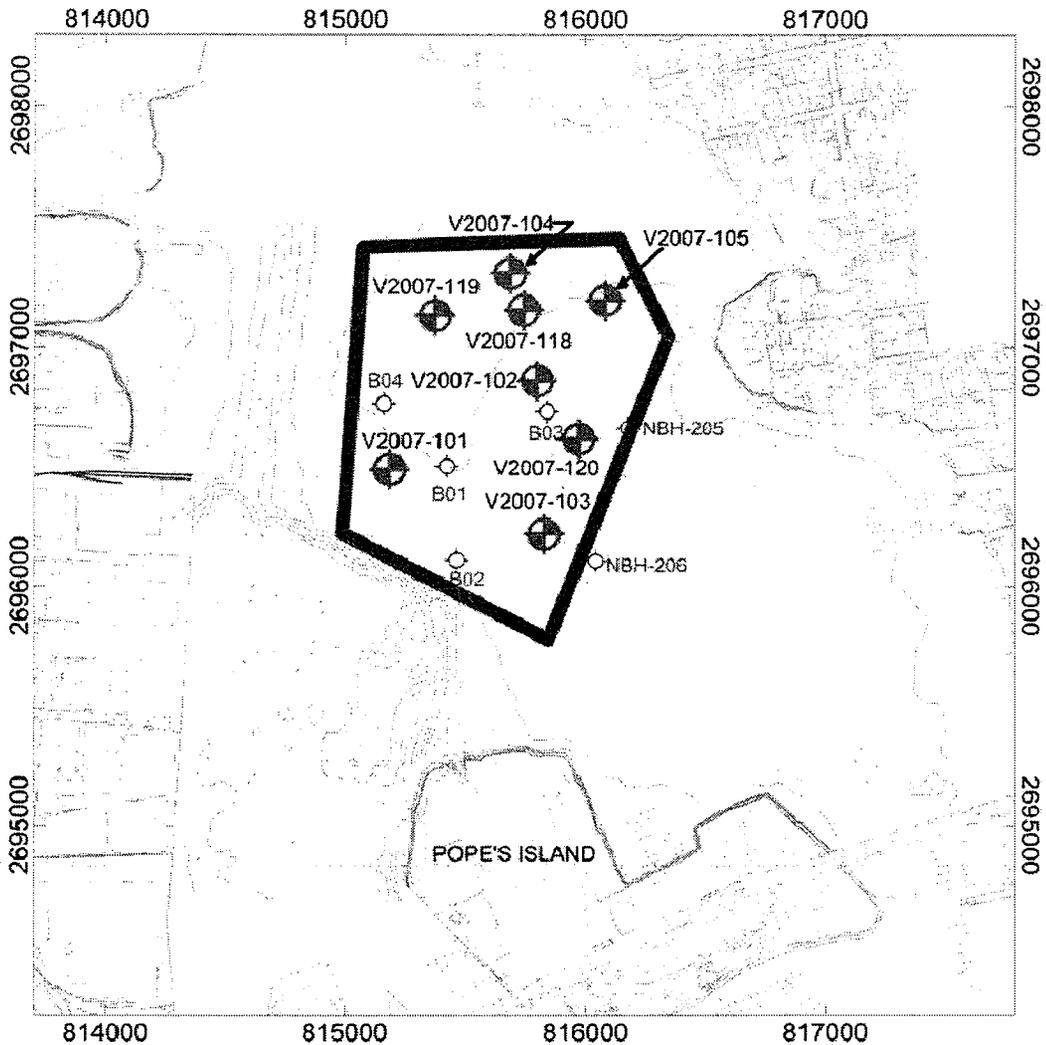
CAPE COD BAY DISPOSAL SITE

Description: The Cape Cod Bay Disposal Site (CCBDS) is centered at coordinates 41°54.406' N, 70°13.268' W (NAD 83) and is located 8.0 nmi (14.9 km) southwest of Long Point, Provincetown, Massachusetts. The site has a relatively flat, featureless seafloor with an average water depth of 102 ft (31 m). The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project documents.



NOTE: This chart is not intended for use in navigation.





1. COORDINATES ARE SHOWN IN THE STATE PLANE COORDINATE SYSTEM, MASSACHUSETTS MAINLAND ZONE 2001 REFERENCED TO THE 1983 NORTH AMERICAN DATUM (NAD83) VERTICAL DATUM REFERENCED TO MLLW.

2. BATHYMETRIC CONTOURS FROM USACE HYDROGRAPHIC SURVEY, CONTOUR INTERVAL IS 1 FOOT.

3. THIS MAP IS FOR PLANNING PURPOSES ONLY AND SHOULD NOT BE USED FOR NAVIGATION. ANY UNAUTHORIZED USE OF THIS MAP IS STRICTLY PROHIBITED.

Scale 1:9000



US survey foot

NAD83 / Massachusetts CS83 Mainland zone

-  Vibracore Borings for Suitability Testing
-  Other Related Geotechnical Borings from the Proposed CAD Area (B01 thru B04 = Deep Borings) (NBH-205, NBH-206 = Maguire Original DMMP Deep Borings)

NEW BEDFORD HARBOR- NAVIGATION DREDGING

**NORTH OF POPE'S ISLAND
AREA OF POTENTIAL CAD CELLS**

Apex Companies, LLC