US Army Corps of Engineers®
New York District

LAKE MONTAUK HARBOR, EAST HAMPTON, NEW YORK

NAVIGATION IMPROVEMENTS

DRAFT SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT

MAY 2025

APPENDIX B:

ENDANGERED SPECIES ACT

NMFS

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NEW YORK 10278-0090

March 12, 2025

Environmental Analysis Branch

NOAA Fisheries
Greater Atlantic Regional Fisheries Office
Protected Resources Division
55 Great Republic Drive
Gloucester, MA 01930

Attn: Ms. Jennifer Anderson

Re: Lake Montauk Harbor Navigation Project Reinitiation of ESA Consultation

Dear Ms. Anderson,

The U.S. Army Corps of Engineers, New York District (District), in cooperation with the Town of East Hampton, is undertaking the subject project to enable the safe navigation of the Federal channel and reduce erosion on the downdrift beach. The proposed action includes the deepening of the -12ft MLLW Federal channel and deposition basin to -17ft MLLW and widening of the deposition basin to 100ft within the Lake Montauk Harbor, Town of East Hampton, Long Island, NY. The proposed action was assessed under the 2020 Final EA. This letter is to request Endangered Species Act (ESA) concurrence from your office for the Lake Montauk Harbor (LMH) Project. The District has made the determination that the proposed activity may affect, but is not likely to adversely affect, any species listed as threatened or endangered by NMFS under the ESA of 1973, as amended. Our supporting analysis is provided below.

Proposed Project

The LMH Navigation project was authorized for construction under the USACE Continuing Authorities Program per Section 107 of the Rivers and Harbor Act of 1960 (33 U.S.C. Section 577). The project enables the safe navigation of the Federal channel and reduces erosion on the downdrift beach. The proposed action includes the deepening of the existing -12-foot MLLW Federal channel and deposition basin to -17-foot MLLW and widening the deposition basin to 100 feet within the Lake Montauk Harbor, Town of East Hampton, Long Island, NY.

During the Pre-construction Engineering and Design (PED) phase of the LMH project, the USACE New York District (District) was informed by survey data collected to inform designs of the presence of hard material within LMH channel. This material, ranging in size from cobbles to boulders, obstructs maintenance dredging of the channel and must be removed before the channel can be deepened to its authorized depth. Additionally, due to real estate constraints and the existing narrow shoreline to the west of the channel, dredged material cannot

be placed only in the upland areas and must be placed in nearshore waters. These constraints and changes in channel condition necessitated design changes, and therefore require additional consultation under the ESA.

The proposed action includes the removal of approximately 110,000 cubic yards of sand and approximately 15,000 cubic yards of hard material from the channel using a cutterhead dredge and excavator on a modular barge pulled by a tugboat. Transitional placement of the sandy material will occur along the shore on the western side of the jetty; transitional placement is defined as sediment that is kept within the system but will naturally move through the system or be rehandled (USACE 2023). This placement will largely be between the upland areas and -6 feet MLLW. Approximately 5,000 cubic yards of dredged material will be placed seaward of -6 feet MLLW due to space constraints. Based on prior maintenance dredging, the material is expected to downdrift naturally to the eroded downdrift shore. The hard material removed from the channel will be transported approximately 35 nautical miles northwest via barge and will be beneficially reused at the New York State Department of Environmental Conservation (NYSDEC) Mattituck Artificial Reef site. The Mattituck site was selected in coordination with NYSDEC. Note that the transportation and placement of materials to the artificial reef was assessed in the NYSDEC artificial reef program Final Supplemental Generic Environmental Impact Statement (FSGEIS) and will be referenced and incorporated in this assessment where appropriate.

Dredging is anticipated to begin 01 October 2025 and will take three months to complete, ending on 31 December 2025. This complies with the proposed in water time of year restriction of 1 January – 30 September. This restriction is one month longer than the restriction proposed in the previous EFH consultation, however it is in line with the proposed NYSDEC seasonal restriction (per the project's Water Quality Certificate) and will allow construction to take place in one season rather than over multiple years (thereby avoiding a longer construction period and resulting increased impacts). USACE may request a one-time waiver from some of the seasonal restrictions should the ongoing shoaling at the entrance channel, which prohibits commercial fishing vessels, require it.

Maintenance dredging of the Federal channel currently occurs every 3 to 4 years. Maintenance dredging after construction of the proposed action is expected to occur every 7 years. Removal of the hard material is a one-time action and maintenance dredging would only include removal of sandy dredged material. Dredged material from maintenance dredging will be placed on the shore along the western jetty as has been the practice in past authorized maintenance activities.

Description of the Action Area

The action area is defined as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action" (50CFR§402.02). For this project, the action area includes the Lake Montauk Harbor navigation channel and deposition basin, the vessel transit route within

the action area including the area of pipeline from the dredge to the beach nourishment site on the beach and nearshore west of the jetty, the Mattituck Artificial Reef site, and the underwater areas where the effects of dredging and fill placement (i.e., increases in suspended sediment) will be experienced.

The sediment in the areas to be dredged consist of mostly sand and gravel (98% sand). The area of hard material to be removed ranges in size from cobble to boulders. Benthic resources within the channel and deposition basin areas are limited due to the constant scouring of the channel bottom by transiting vessels, and due to regular maintenance of both every three to four years. Benthic resources may include a diversity of species including those types considered primary prey species for sturgeon and sea turtles (crustaceans and mollusks). There is a patch of Submerged Aquatic Vegetation (SAV) adjacent to the LMH Federal channel, approximately 160 feet from the action area. However, the presence of the SAV bed has not been verified.

Littoral material likewise consists of largely sand and gravel. The western beach has been reduced to a gravel beach due to erosion and receives dredged material from the navigation channel approximately every three to four years from maintenance dredging. Sediment samples collected in 1994 that represent the typical beach sand sizes in the study area found that the median sand size along the western shoreline is approximately 0.24mm, and that the finer sediments present are likely from past channel dredging (USACE 2020).

Mattituck Artificial Reef

The Mattituck Artificial Reef is described in the NYSDEC FSGEIS (NYSDEC 2020). The Mattituck site is located within the eastern basin of the Long Island Sound (latitude and longitude: 41°3’21.386”N / 072°34’24.102”W) and has fine to medium sized sand, with depths ranging from 60-100 feet. The District has not previously placed material at this reef site, however the reef is fully permitted and has consultation in place that assesses the impacts of material placement at reef sites.

NMFS Listed Species in the Action Area

The NOAA ESA Section 7 Mapper was accessed on January 15, 2025, to determine which listed species may be present in the project area. No critical habitat is present. The mapper identified the following species as potentially present:

1. Atlantic Large Whales

Federally endangered North Atlantic right whales (migrating adults and juveniles) and fin whales (migrating, foraging, and overwintering adults and juveniles; and calving adults) are potentially present in the project area. These species use the near shore, coastal waters of the Atlantic as they migrate between northern foraging and southern calving grounds. North Atlantic right whales are expected

in mid-Atlantic waters primarily between November 1 and April 30, although transient right whales can be present outside of this time frame. Fin whales are known to forage in the mid-shelf waters off the eastern end of Long Island and primarily occur in New York waters during the spring, summer, and fall. Fin whales are not expected to occur in the portions of the action area within the shallow nearshore channelized waters of LMH but may occur in the remaining portion of the action area.

Each species has a published recovery plan:

- North Atlantic Right Whale (*Eubalaena glacialis*) (73 FR 12024; Recovery Plan: NMFS 2005)
- Fin Whale (*Balaenoptera physalus*) (35 FR 18319; Recovery Plan: NMFS 2010a)

2. Sea Turtles

Migrating and foraging adults and juveniles of four listed species of sea turtles are potentially present in the action area. These species include the threatened North Atlantic DPS of Green sea turtle (*Chelonia mydas*), the threatened Northwest Atlantic DPS of Loggerhead sea turtle (*Caretta caretta*), the endangered Kemp's Ridley sea turtle (*Lepidochelys kempii*), and the endangered Leatherback sea turtle (*Dermochelys coriacea*).

Sea turtles seasonally migrate, moving north and inshore as waters warm and migrating south as water temperatures decline in the fall. Within the Long Island and Block Island Sounds and associated estuaries, sea turtles are likely to be present between May and November, with the highest concentrations present from June through October. Outside of this time period, cold-stunned individuals that fail to migrate south may be present between October and November (Morreale 1999; Morreale 2003; Morreale and Standora 2005; Shoop and Kenney 1992).

Several studies have examined the seasonal distribution of sea turtles in New York waters. In most years, sea turtles begin to arrive in New York waters in June (Morreale and Standora 1993; Morreale and Burke 1997). Tracking studies on Kemp's ridleys demonstrate that all tagged turtles had traveled south from New York coastal waters by the first week in November (Standora et al. 1992). In 2002 and 2003, Morreale conducted a study of loggerhead, Kemp's ridley, and green sea turtles captured in pound nets fishing in the Peconic Bay area. Sea turtles were not encountered after the last week in October (Morreale 2003). Tracking studies summarized in Morreale and Standora (2005) indicate that loggerhead and Kemp's ridley sea turtles begin leaving New York waters in October and generally by the first week of November, turtles head southward past the Virginia border. Similar migratory patterns are expected for green and leatherback sea turtles (Shoop and Kenney 1992; Morreale 1999). Based on this information, sea turtles may occur in the action area between May and November.

Each species has a published recovery plan:

- Loggerhead turtle (Northwest Atlantic DPS; *Caretta caretta*) (76 FR 58868; Recovery Plan: NMFS and USFWS 2008)
- Green turtle (North Atlantic DPS; *Chelonia mydas*) (81 FR 20057; Recovery Plan: NMFS and USFWS 1991)
- Kemp's Ridley turtle (*Lepidochelys kempii*) (35 FR 18319; Recovery Plan: NMFS et al. 2011)
- Leatherback turtle (*Dermochelys coriacea*) (35 FR 8491; Recovery Plan: NMFS and USFWS 1992).

3. Atlantic Sturgeon

There are five DPSs of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) listed as federally threatened or endangered (77 FR 5880 and 77 FR 5914). Atlantic sturgeon originating from the New York Bight, Chesapeake Bay, South Atlantic, and Carolina DPSs are listed as endangered, while the Gulf of Maine DPS is listed as threatened. The marine range of all five DPSs extends along the Atlantic Coast from Canada to Cape Canaveral, Florida.

At around three years of age, subadults exceeding 2.3 feet in total length begin to migrate to marine waters (Bain et al. 2000). After emigration from the natal river/estuary, subadults and adult Atlantic sturgeon travel within the marine environment, typically in waters less than 164 feet in depth, using coastal bays, sounds and ocean waters (ASSRT 2007). In rivers and estuaries, Atlantic sturgeon typically use the deepest waters available; however, Atlantic sturgeon also occur over shallow (8.2 feet), tidally influenced flats and mud, sand, and mixed cobble substrates (Savoy and Pacileo 2003). Occurrence in these shallow waters is thought to be tied to the presence of benthic resources for foraging.

Based on the above, adult and subadult Atlantic sturgeon from any of five DPSs could occur in the project area. However, as Atlantic sturgeon spawn in freshwater portions of large rivers and early life stages are not tolerant of salinity, no eggs, larvae, or juvenile Atlantic sturgeon occur in the action area.

There is no published recovery plan for Atlantic sturgeon.

Effects Determination

1. Noise

There are several sound sources during backhoe dredge activities. These include dragging and scraping of the bucket when filling with material; sound transmitted from placement of material into receiving barge; machinery and engine noise from the dredge and tugboat; and the periodic movement of spuds and anchors. From a literature review, noise from backhoe dredging activities

range from 163 – 179 decibels (dB) re 1µPa at 1m[1] (Burton et al., 2019). The most intense noises associated with backhoe dredging are during bucket operation with sound levels measured at 179dB. Other noise generated during dredging includes raising and lowering of spuds (176dB), engine operation (167dB), and barge loading (166dB). The noise generated during backhoe dredge operation is expected to be within the range of noise experienced regularly in the project waters, as there are vessels regularly operating within the harbor and its adjacent waters. Noise generated by small boats and ships range from 160-180dB and larger vessels range from 180-190dB (Burton et al., 2019).

No blasting or pile driving is proposed as part of the project, and therefore no direct injury or mortality to aquatic mammals, sea turtles, or fish species are anticipated.

Auditory injury (PTS or TTS) is not expected as a result of construction. The PTS onset acoustic threshold for low-frequency cetaceans, which includes fin and right whales, is 199dB and the TTS onset threshold is 179dB. The acoustic threshold for behavioral disturbance of marine mammals is 160dB (NMFS 2023). Dredge operations are well below the threshold for PTS onset and are at or below the threshold for TTS.

Behavioral disturbance to aquatic species is not expected to occur. The acoustic thresholds for behavioral disturbances to marine mammals, fishes, and sea turtle species are 160dB, 150dB, and 175dB, respectively. As backhoe dredge operations are limited to the harbor channel, and marine mammals and sea turtles are not expected to be present in the channel itself, and the noise from operations is expected to significantly decrease with increased distance from the dredge, behavioral disturbances to marine mammals and turtles are not expected to occur. Similarly for fish species, as the harbor and channel are frequented by larger commercial fishing and recreation vessels, the one-time operation of a backhoe dredge within the channel is not expected to cause behavioral disturbance to fish in the action area.

> The NYSDEC FSGEIS considered the effects of noise from construction vessels and the placement of materials at the artificial reef (NYSDEC 2020). It determined that noises from construction vessels would be comparable to noise from existing oceangoing vessels transiting the reef and that while there may be potential increased short-term impacts during the placement of materials, this noise would be short and temporary in duration. Additionally, marine mammals are highly mobile and would be expected to vacate the area during placement of materials. Therefore, there would be no anticipated adverse impacts to marine species due to the noise of material placement at the reef site.

2. Suspended Sediments/TSS

[1] All sound levels are re 1µPa at 1m, unless otherwise noted.

Turbidity is not expected to increase during construction of the proposed action. Due to the low percentage of fine-grained sediments that will be removed by the cutterhead dredge, turbidity will be temporary and localized (immeasurable and insignificant) and primarily confined to the channel prism. This turbidity is a natural feature of estuarine habitats and embayments and is comparable to the prop wash presently created in the shoaling environment by the large number of vessels using the harbor. Turbidity from the placement of dredged material in the nearshore environment is also expected to be negligible, as the sandy material is expected to quickly settle out of the water column.

Cutterhead Dredging

Modeling results of cutterhead dredging indicated that TSS concentrations above background levels would be present throughout the bottom six feet (1.8 meters) of the water column for a distance of approximately 1,000 feet (USACE 1983). Elevated suspended sediment levels are expected to be present only within approximately 984 to 1640-foot radius of the cutterhead dredge (USACE 1983; LaSalle 1990; Hayes et al. 2000, as reported in Wilber and Clarke 2001). TSS concentrations associated with cutterhead dredge sediment plumes typically range from 11.5 to 282 mg/L with the highest levels (550.0 mg/L) detected adjacent to the dredge with concentrations decreasing with increased distance from the dredge (Nightingale and Simenstad 2001; USACE 2005, 2010, 2015b). The TSS levels expected for cutterhead dredging (up to 550.0 mg/L) are below those shown to have adverse effect on fish (typically up to 1,000.0 mg/L; see summary of scientific literature in Burton 1993; Wilber and Clarke 2001).

Mechanical Dredging

TSS concentrations associated with mechanical clamshell bucket dredging operations have been shown to range from 105 mg/L in the middle of the water column to 445 mg/L near the bottom (USACE 2001). Furthermore, TSS concentrations measured at 500, 1000, 2000, and 3300 feet from dredge sites in the Delaware River detected concentrations between 15 mg/L and 191 mg/L up to 2000 feet from the dredge site (Burton 1993). In support of the New York/New Jersey Harbor Deepening Project, USACE conducted extensive monitoring of mechanical dredge plumes (USACE 2015a). Dredge sites monitored included Arthur Kill, Kill van Kull, Newark Bay, and Upper New York Bay. The effect of currents and tides on dispersal of suspended sediment were not thoroughly examined or documented. Independent of bucket type or size, plumes dissipated to background levels within 600 feet of the source in the upper water column and 2400 feet in the lower water column. Based on these studies, elevated suspended sediment concentrations at several hundreds of mg/L above background may be present in the immediate vicinity of the bucket but would settle rapidly within a 2400-foot radius of the dredge. The TSS levels expected for mechanical dredging (up to 445.0 mg/L) are below those shown to have adverse effect on fish.

Placement of Hard Materials at Artificial Reef

As part of their Artificial Reef program, the NYSDEC assessed the effect of material placement at the reef sites on water quality. They determined that, while turbidity could temporarily increase, any suspended sediments would settle quickly out of the water column (as sediments are primarily sand) and any increases in turbidity would be short-term. The assessment concluded that no significant impacts to listed species as a result of changes in water quality would occur (NYSDEC 2020).

Impacts on ESA-listed Species

No information is available on the effects of TSS on whales or juvenile/adult sea turtles. Studies of the effects of TSS levels on fish have been shown to adversely affect the most sensitive species at concentrations of 580.0 mg/L, with most species more typically adversely affected at concentrations of 1,000mg/L (Burton 1993). TSS is most likely to affect sea turtles, subadult and adult Atlantic sturgeon, or whales if a plume causes a barrier to normal behaviors. These species are highly mobile and would likely be able to avoid any plume and effects on their movements is likely to be insignificant (immeasurable and undetectable). As turbidity from the proposed action is expected to be temporary and localized (immeasurable and insignificant), is well below the level shown to adversely affect fish, and is comparable to existing conditions, we have determined that the effects of suspended sediment on whales, sea turtles, and Atlantic sturgeon resulting from construction of the proposed action are insignificant and not likely to adversely affect these species.

3. Capture in Dredge Bucket

Whale and sea turtle species are not susceptible to capture in dredge bucket, and therefore only subadult and adult Atlantic sturgeon will be considered for this stressor. Effects of impingement/entrainment in cutterhead dredging operations was discussed in the previous ESA consultation and will not be discussed further in this section. The effects of impingement/entrainment in mechanical dredges were not previously discussed and will be assessed here.

Atlantic sturgeon are not known to be vulnerable to entrainment and/or impingement in mechanical dredges. For sturgeon to be captured by the dredge bucket, sturgeon would need to be directly underneath the bucket during operation. During foraging, sturgeon move along the bottom. Atlantic sturgeon feed on benthic invertebrates (e.g., amphipods, gastropods, annelids, decapods) and occasionally on small fish. The benthos within the channel footprint, where the mechanical dredge will operate, are limited, and has no documented or potential shellfish beds due to constant scouring by transiting vessels and regular four-year maintenance cycles. As such, the channel and deposition basin are unsuitable for Atlantic sturgeon foraging. Based on this, Atlantic sturgeon are not expected to be foraging in this part of the action area and are therefore not expected to be present where the mechanical dredge will be operating.

If, however, an Atlantic Sturgeon is foraging opportunistically within this portion of the action area, there could be a risk of interacting with the dredge. However, because the dredge moves very slowly, and there is ample space for movements it is likely that subadult or adult Atlantic sturgeon can easily avoid the dredge. There is evidence that suggests that sturgeon may be less responsive to stimuli while overwintering, which may make it less likely that the sturgeon would avoid a dredge during this time period. However, overwintering grounds are not known to exist in the project area and therefore, no overwintering sturgeon are likely to occur in the portion of the project area where dredging operations will occur.

Atlantic sturgeon are expected to be using the action area only nominally as they move to other more prey-abundant areas. The density of the sturgeon in the project area is expected to be low between 30 September and 15 January, for the duration of construction activities. If Atlantic sturgeon do occur in the area to be dredged with mechanical dredge, there is ample space and ability for the sturgeon to avoid the dredge.

Based on the above, the District concludes that the risk factors that increase the likelihood for Atlantic sturgeon entrainment/impingement are not present in the action area.

4. Vessel Interactions

Lake Montauk Harbor channel is a well-trafficked, relatively shallow waterway, used by both recreational and commercial vessels. The disturbance of a small-scale dredging operation and future maintenance activity (every 7 years) should have no greater impact. The one-time disturbance of a mechanical dredge to remove the hard material likewise is expected to have no significant impact. The short-term presence of these additional vessels during construction is not expected to cause observable changes in the behavior and/or presence of aquatic species.

Dredging will maintain the navigation channel and is expected to enable vessels to travel safely through the harbor. Allowing safe passage in the navigation channel is not expected to change the number of vessels that use the action area and would therefore preserve the status quo with regard to vessel routes and vessel numbers and would not change the risk of vessel strike. Any slight increase in risk from altered patterns of use of the channel would be too small to be detected or measures and, therefore, effects are insignificant.

Whale and sea turtle species are not expected to be present in the channel and would not interact with the dredge vessel. Atlantic sturgeon may be present, but there would be ample room for movements within the channel and the dredge will

be moving at slow speeds during construction, and therefore interactions with the dredge vessel are not anticipated.

Placement of material on the beach/nearshore will be done via pipeline and no vessel interactions would occur.

Material transportation to the artificial reef site via barge and tugboat will be done following BMPs including maintaining low speed to avoid collisions with ESA species. Vessel strikes are thought to occur as a result of fast-moving vessels. During transportation of material to the reef (approximately 35 nautical miles away from the dredge site), vessels will maintain low speeds to avoid potential vessel strikes.

Conclusions

Based on the analysis that all effects of the proposed action will be insignificant and/or extremely unlikely, the District has determined that the proposed action is not likely to adversely affect any listed species or critical habitat under NOAA Fisheries' jurisdiction. The District certifies that the best scientific and commercial data available was used to complete this analysis. The District requests your concurrence with this determination.

Sincerely,

WEPPLER.PETER.M.1228647353

Digitally signed by WEPPLER.PETER.M.1228647353
Date: 2025.03.12 16:24:20 -04'00'

Peter Weppler,
Chief, Environmental Analysis Branch

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NOAA FISHERIES
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Greater Atlantic Region

US Army Corps of Engineers ®

GARFO ESA Section 7: NLAA Program Verification Form

(Please submit a signed version of this form, together with any project plans, maps, supporting analyses, etc., to nmfs.gar.esa.section7@noaa.gov with "**USACE NLAA Program: [Application Number]**" in the subject line)

Section 1: General Project Details

Application Number:	Lake Montauk Harbor, NY Navigation Study
Reinitiation:	Yes
Applicant(s):	USACE New York District
Permit Type:	Civil Works/Federal Navigation
Anticipated project start date (e.g., 10/1/2020)	10/01/2025
Anticipated project end date (e.g., 12/31/2022 – if there is no permit expiration date, write "N/A")	12/31/2025

Project Type/Category (check all that apply to entire action):

☐	Aquaculture (shellfish) and artificial reef creation	☐	Mitigation (fish/wildlife enhancement or restoration)
☑	Dredging and disposal/beach nourishment	☐	Bank stabilization
☐	Piers, ramps, floats, and other structures	☑	If other, describe project type category: Shallow draft Navigation with nearshore placement of

Town/City:	East Hampton	Zip:	11954
State:	New York	Water body:	Lake Montauk Harbor

Project/Action Description **and** Purpose (*include relevant permit conditions that are not captured elsewhere on form*):
Deepening of the existing -12'MLLW Federal Navigation channel to -17'MLLW and deepening of the existing navigation channel from -12'MLLW to -17'MLLW and widening to 100' wide within waters in Lake Montauk Harbor, Town of East Hampton, Long Island, NY to enable the safe navigation of the Federal Channel and to reduce erosion on the downdrift beach. Approximately 110,000 CY of sand and 15,000CY of hard material would be removed from the channel using a cutterhead dredge and excavator. Transitional placement of sandy dredged material along the shore to the west of the jetty, largely between the upland and -6'MLLW, with approximately 5,000CY of sand placed seaward of -6'MLLW due to space constraints. Based on prior maintenance dredging, the material is expected to spread downdrift naturally to the eroded downdrift shoreline. The hard material, ranging in size from cobble to boulder, will be transported approximately 35 nautical miles northwest via barge and be beneficially reused at the NYSDEC Mattituck artificial reef site (selected in coordination with NYSDEC). The

Type of Bottom Habitat Modified:	Permanent/Temporary:	Area (acres):
Sand (saline)	Temporary	30.00
Hard bottom (saline)	Select Permanent or Temporary	
Select Type of Bottom Habitat	Select Permanent or Temporary	
Project Latitude (e.g., 42.625884)	41.075000	
Project Longitude (e.g., -70.646114)	-71.936000	
Mean Low Water (MLW)(m)	0.05	
Mean High Water (MHW)(m)	0.66	

Width (m) of water body in action area:	Stressor Category (stressor that extends furthest distance into water body – e.g., turbidity plume; sound pressure wave):	Max extent (m) of stressor into the water body:
137.00	Turbidity	732.00

Section 2: ESA-listed species and/or critical habitat in the action area:

☑	Atlantic sturgeon (all DPSs)	☑	Kemp's ridley sea turtle
☐	Atlantic sturgeon critical habitat Indicate which DPS : Select DPS	☑	Loggerhead sea turtle (NW Atlantic DPS)
☐	Shortnose sturgeon	☑	Leatherback sea turtle
☐	Atlantic salmon (GOM DPS)	☑	North Atlantic right whale
☐	Atlantic salmon critical habitat (GOM DPS)	☐	North Atlantic right whale critical habitat
☑	Green sea turtle (N. Atlantic DPS)	☑	Fin whale

* Please consult GARFO PRD's ESA Section 7 Mapper for ESA-listed species and critical habitat information for your action area at: https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater.

Section 3: NLAA Determination (check all applicable fields):
If the Project Design Criteria (PDC) is met, select Yes. If the PDC is not applicable (N/A) for your project (e.g., the stressor category is not included for your project activity, or for PDC 2, your project does not occur within the range of the GOM DPS of Atlantic salmon), select N/A. If the PDC is applicable, but is not met, leave both boxes blank and provide a justification for that PDC in Section 4.

a) GENERAL PDC			
Yes	N/A	PDC #	PDC Description
☑		1.	No portion of the proposed action will individually or cumulatively have an adverse effect on ESA-listed species or designated critical habitat.
☐	☑	2.	No portion of the proposed action will occur in the tidally influenced portion of rivers/streams where Atlantic salmon presence is possible from April 10–November 7. **Note**: If the project will occur within the geographic range of the GOM DPS Atlantic salmon but their presence is not expected following the best available commercial scientific data, the work window does not need to be applied (include reference in project description).
☐	☑	3.	No portion of the proposed action that may affect shortnose or Atlantic sturgeon will occur in areas identified as spawning grounds as follows: i. Gulf of Maine: April 1–Aug. 31 ii. Southern New England/New York Bight: Mar. 15–Aug. 31 iii. Chesapeake Bay: March 15–July 1 and Sept. 15–Nov. 1 **Note**: If river specific information exists that provides better or more refined time of year information, those dates may be substituted with NMFS approval (include reference in project description).
☐	☑	4.	No portion of the proposed action that may affect shortnose or Atlantic sturgeon will occur in areas identified as overwintering grounds, where dense aggregations are known to occur, as follows: i. Gulf of Maine: Oct. 15–April 30 ii. Southern New England/ New York Bight: Nov. 1–Mar. 15 iii. Chesapeake Bay: Nov. 1–Mar. 15 **Note**: If river specific information exists that provides better or more refined time of year information, those dates may be substituted with NMFS approval (include reference in project description).
☐	☑	5.	Within designated Atlantic salmon critical habitat, no portion of the proposed action will affect spawning and rearing areas (PBFs 1-7).
☐	☑	6.	Within designated Atlantic sturgeon critical habitat, no work will affect hard bottom substrate (e.g., rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (i.e., 0.0-0.5 parts per thousand) (PBF 1).

Yes	N/A	PDC #	PDC Description
☑		7.	Work will result in no or only temporary/short-term changes in water temperature, water flow, salinity, or dissolved oxygen levels.
☑		8.	If ESA-listed species are (a) likely to pass through the action area at the time of year when project activities occur; and/or (b) the project will create an obstruction to passage when in-water work is completed, then a zone of passage (~50% of water body) with appropriate habitat for ESA-listed species (e.g., depth, water velocity, etc.) must be maintained (i.e., physical or biological stressors such as turbidity and sound pressure must not create barrier to passage).
☐	☑	9.	Any work in designated North Atlantic right whale critical habitat must have no effect on the physical and biological features (PBFs).
☐		10.	The project will not adversely impact any submerged aquatic vegetation (SAV).
☑		11.	No blasting or use of explosives will occur.

b) The following stressors are applicable to the action (check all that apply – use Stressor Category Table for guidance):

☐	Sound Pressure
☑	Impingement/Entrapment/Capture
☑	Turbidity/Water Quality
☐	Entanglement (Aquaculture)
☑	Habitat Modification
☑	Vessel Traffic

	Stressor Category					
Activity Category	Sound Pressure	Impingement/ Entrapment/ Capture	Turbidity/ Water Quality	Entanglement	Habitat Mod.	Vessel Traffic
Aquaculture (shellfish) and artificial reef creation	N	N	Y	Y	Y	Y
Dredging and disposal/beach nourishment	N	Y	Y	N	Y	Y

	Stressor Category					
Activity Category	Sound Pressure	Impingement/ Entrapment/ Capture	Turbidity/ Water Quality	Entanglement	Habitat Mod.	Vessel Traffic
Piers, ramps, floats, and other structures	Y	N	Y	N	Y	Y
Transportation and development (e.g., culvert construction, bridge repair)	Y	N	Y	N	Y	Y
Mitigation (fish/wildlife enhancement or restoration)	N	N	Y	N	Y	Y
Bank stabilization and dam maintenance	Y	N	Y	N	Y	Y

c) SOUND PRESSURE PDC

Information for Pile Driving:
If your project includes **pile driving of any kind**, please attach your calculation to this verification form to verify that it fits within the scope of the behavioral/injury threshold analysis for ESA-listed species in the action area. The NMFS Office of Protected Resources Acoustic Calculator is available as one source, should you not have other information:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-effects-analysis-acoustics-greater-atlantic-region

	Pile material	Pile diameter/width (inches)	Number of piles	Installation method
a)	Select pile material			Select installation method
b)	Select pile material			Select installation method
c)	Select pile material			Select installation method
d)	Select pile material			Select installation method

Yes	N/A	PDC #	PDC Description
☐	☑	12.	If pile driving is occurring during a time of year when ESA-listed species may be present, and the anticipated noise is above the behavioral noise threshold, a "soft start" is required to allow animals an opportunity to leave the project vicinity before sound pressure levels increase. *In addition to using a soft start at the beginning of the work day for pile driving, one must also be used at any time following cessation of pile driving for a period of 30 minutes or longer.* For impact pile driving: pile driving will commence with an initial set of three strikes by the hammer at 40% energy, followed by a one minute wait period, then two subsequent 3-strike sets at 40% energy, with one-minute waiting periods, before initiating continuous impact driving. For vibratory pile installation: pile driving will be initiated for 15 seconds at reduced energy followed by a one-minute waiting period. This sequence of 15 seconds of reduced energy driving, one-minute waiting period will be repeated two additional times, followed immediately by pile-driving at full rate and energy.
☐	☑	13.	Any new pile supported structure must involve the installation of ≤ 50 piles (below MHW).
☐	☑	14.	All underwater noise (pressure) is below (<) the physiological/injury noise threshold for ESA-species in the action area.

d) IMPINGEMENT/ENTRAINMENT/CAPTURE PDC

Information for Dredging/Disposal:			
Type of dredge:	Mechanical		
Maintenance dredging?:	Yes	If "Yes", how many acres?	13.50
If maintenance, when was the last dredge cycle?	2018		
New dredging:	Yes	If "Yes", how many acres?	1.50
Estimated number of dredging events covered by permit:	1		
ESA-species exclusion measures required (e.g., cofferdam, turbidity curtain):	No		
If no exclusion measures required, explain why:	Presence of ESA-listed species limited to rare, transient individuals		
Information for Intake Structures:			
Mesh screen size (mm) for temporary intake:			

Yes	N/A	PDC #	PDC Description
☑	☐	15.	Only mechanical, cutterhead, and low volume hopper (e.g., CURRITUCK, ~300 cubic yard maximum bin capacity) dredges may be used.
☑	☐	16.	No new dredging in Atlantic sturgeon or Atlantic salmon critical habitat (maintenance dredging still must meet all other PDCs). New dredging outside Atlantic sturgeon or salmon critical habitat is limited to one time dredge events (e.g., burying a utility line) and minor (≤ 2 acres) expansions of areas already subject to maintenance dredging (e.g., marina/harbor expansion).
☑	☐	17.	Work behind cofferdams, turbidity curtains, or other methods to block access of animals to dredge footprint is required when operationally feasible or beneficial and ESA-listed species are likely to be present (if presence is limited to rare, transient individuals, exclusion methods are not necessary).
☑	☐	18.	Temporary intakes related to construction must be equipped with appropriate sized mesh screening (as determined by GARFO section 7 biologist and/or according to Chapter 11 of the NOAA Fisheries Anadromous Salmonid Passage Facility Design) and must not have greater than 0.5 fps intake velocities, to prevent impingement or entrainment of any ESA-listed species life stage.
☑	☐	19.	No new permanent intake structures related to cooling water, or any other inflow at facilities (e.g. water treatment plants, power plants, etc.).

e) TURBIDITY/WATER QUALITY PDC

Information for Turbidity Producing Activity (excluding disposal):	
ESA-species turbidity control measures required (e.g., turbidity curtain):	No
If no turbidity control measures required, explain why:	Presence of ESA-listed species limited to rare, transient individuals
Information for Dredged Material Disposal:	
Disposal site:	Nearshore placement/nourishment
Estimated number of trips to disposal site:	16
Relevant disposal site permit/special conditions required (NAE: for offshore disposal, include Group A, B, C, or relevant Long Island Sound consultation):	The channel deepening and beach placement were authorized under existing WQC, with no disposal conditions noted. Disposal of hard material from the dredging of LMH channel will be permitted under modified WQC for the project, and no disposal-related conditions are anticipated. Final WQC can be provided to NMFS once available. Reef placement is authorized under the reef's USACE regulatory permit and

Yes	N/A	PDC #	PDC Description
☑	☐	20.	Work behind cofferdams, turbidity curtains, or other methods to control turbidity is required when operationally feasible or beneficial and ESA-listed species are likely to be present (if presence is limited to rare, transient individuals, turbidity control methods are not necessary).
☑	☐	21.	In-water offshore disposal may only occur at designated disposal sites that have been the subject of ESA section 7 consultation with NMFS, where a valid consultation is in place and appropriate permit/special conditions are included.

Yes	N/A	PDC #	PDC Description
☐	☑	22.	Any temporary discharges must meet state water quality standards (e.g., no discharges of substances in concentrations that may cause acute or chronic adverse reactions, as defined by EPA water quality standards criteria).
☐	☑	23.	Only repair, upgrades, relocations and improvements of existing discharge pipes or replacement in-kind are allowed; no new construction of untreated discharges.
	f) ENTANGLEMENT PDC		

Information for Aquaculture Projects:

Approximate distance from shore (MHW)(m):	
Grow season begins (approximate):	
Grow season ends (approximate):	
Total number of vertical lines:	
Total number of horizontal lines:	
Is any gear seasonally removed from the water? If yes, which parts and when?	

	Aquaculture Gear	Acreage (total permit footprint)	Type of Shellfish Cultivated
a)	Select aquaculture gear		Select type of shellfish cultivated
b)	Select aquaculture gear		Select type of shellfish cultivated
c)	Select aquaculture gear		Select type of shellfish cultivated

Yes	N/A	PDC #	PDC Description
☐	☑	24.	Shell on bottom <50 acres with maximum of 4 corner marker buoys;
☐	☑	25.	Cage on bottom with no loose floating lines <5 acres and minimal vertical lines (1 per string of cages, 4 corner marker buoys);
☐	☑	26.	Floating cages in <3 acres in waters and shallower than -10 feet MLLW with no loose lines and minimal vertical lines (1 per string of cages, 4 corner marker buoys);
☐	☑	27.	Floating upweller docks in >10 feet MLLW.
☐	☑	28.	Any in-water lines, ropes, or chains must be made of materials and installed in a manner to minimize or avoid the risk of entanglement by using thick, heavy, and taut lines that do not loop or entangle. Lines can be enclosed in a rigid sleeve.
	g) HABITAT MODIFICATION PDC		
Yes	N/A	PDC #	PDC Description
☐	☑	29.	No conversion of habitat type (soft bottom to hard, or vice versa) for aquaculture or reef creation.

	h) VESSEL TRAFFIC PDC

Information for Vessel Traffic:

	Temporary Project Vessel Type	Number of Vessels
a)	Dredge vessel	1
b)	Tug	2
c)	Work barge	1
	Type of Non-Commercial or Aquaculture Vessels Added *– only include if there is a net increase directly/indirectly resulting from project*)	Number of Vessels (*if sum > 2, PDC 33 is not met and justification required in Section 4*)
a)	Select type of non-commercial or aquaculture vessels	
b)	Select type of non-commercial or aquaculture vessels	
	Type of Commercial Vessels Added (*only include if there is a net increase directly/indirectly resulting from project*)	Number of Vessels (*if > 0, PDC 33 is not met and justification required in Section 4*)
a)		
b)		

If no temporary/permanent vessel traffic, briefly explain (e.g., all land-based work, no net increase in vessel traffic)	No increase in vessel traffic is anticipated as a result of construction.

Yes	N/A	PDC #	PDC Description
☑	☐	30.	Maintain project vessels operating within the action area to speed limits below 10 knots and dredge vessel speeds of 4 knots maximum, while dredging.
☑	☐	31.	Maintain a 1,500-foot buffer between project vessels and ESA-listed whales and a 150-foot buffer between project vessels and sea turtles unless the vessel is navigating to an in-water disposal site/activity. If the vessel is navigating to an in-water disposal site/activity, refer to and include the conditions contained in the appropriate GARFO-USACE/EPA consultation for the disposal site.
☑	☐	32.	The number of project vessels must be limited to the greatest extent possible, as appropriate to size and scale of project.
☑	☐	33.	The permanent net increase in vessels resulting from a project (e.g., dock/float/pier/boating facility) must not exceed two non-commercial vessels. A project must not result in the permanent net increase of any commercial vessels (e.g., a ferry terminal).

Section 4: Justification for Review under the NLAA Program

If the action is not in compliance with all of the General PDC and appropriate stressor PDC, but you can provide justification and/or special conditions to demonstrate why the project still meets the NLAA determination and is consistent with the aggregate effects considered in the programmatic consultation, you may still certify your project through the NLAA program using

this verification form. Please identify which PDC your project does not meet (e.g., PDC 9, PDC 15, PDC 22, etc.) and provide your rationale and justification for why the project is still eligible for the verification form.

To demonstrate that the project is still NLAA, you must explain why the effects on ESA-listed species or critical habitat are **insignificant** (i.e., too small to be meaningfully measured or detected) or **discountable** (i.e., extremely unlikely to occur). **Please use this language in your justification.**

PDC#	Justification
10	The SAV bed is within 160ft of the channel. Elevated suspended sediment levels are expected to be present within 300-500m of the cutterhead dredge (proposed for sand material removal) and within 732m of the mechanical dredge (proposed for rock removal); the SAV bed is within this radius for both dredging activities. Per the EFH coordination and recommendations, a 250ft buffer will be implemented during the eelgrass growing season (April 15 - Oct 15) and work will be sequenced to accommodate this buffer,
PDC #	
PDC #	

PDC #	

Section 5: USACE Verification of Determination

☐	In accordance with the NLAA Program, USACE has determined that the action complies with all applicable PDC and is not likely to adversely affect listed species.
☑	In accordance with the NLAA Program, the USACE has determined that the action is not likely to adversely affect listed species per the justification and/or special conditions provided in Section 4.

USACE Signature:	Date:
KILLY.SOPHIE.ROSE.1556665822 Digitally signed by KILLY.SOPHIE.ROSE.1556665822 Date: 2025.03.17 15:53:49 -04'00'	03/17/2025

Section 6: GARFO Concurrence

☐	In accordance with the NLAA Program, GARFO PRD concurs with USACE's determination that the action complies with all applicable PDC and is not likely to adversely affect listed species or critical habitat.
☑	In accordance with the NLAA Program, GARFO PRD concurs with USACE's determination that the action is not likely to adversely affect listed species or critical habitat per the justification and/or special conditions provided in Section 4.
☐	GARFO PRD does not concur with USACE's determination that the action complies with the applicable PDC (with or without justification), and recommends an individual Section 7 consultation to be completed independent from the NLAA Program.

GARFO Signature:	Date:
Alessia.Brugnara 2025.03.17 17:23:41 -04'00'	03/17/2025