



United States Department of the Interior

NATIONAL PARK SERVICE
Cape Cod National Seashore
99 Marconi Site Road
Wellfleet, MA 02667

IN REPLY REFER TO:
L7617

May 24, 2017

Leslie Fields
Senior Coastal Geologist, CFM
Woods Hole Group
81 Technology Park Drive
E. Falmouth, MA 02536

Dear Ms. Fields:

Cape Cod National Seashore staff has had the opportunity to review the Nauset Estuary Dredging Feasibility Assessment (Feb. 2016) per your request on behalf of the Town of Orleans on April 4, 2017, in which two important coastal projects are being considered. Our position of February 6, 2017 has not changed. We understand the Nauset Beach facility longevity concerns and conceptually support maintaining safe navigation channels within the NPS boundary.

NPS has the authority to regulate what activities take place within waters within the park boundary, such as application of dredge materials to near shore areas, as well as any upland owned by the NPS. We have noted significant concerns and the requirement for a Special Use Permit from NPS to lay equipment and hoses on federal land on a temporary basis. The potential activities that this proposed project presents would be subject to compliance under the National Environmental Policy Act (NEPA). In addition to NEPA, the issuance of a Special Use Permit triggers a number of other compliance and consultation requirements for the NPS, including MA Coastal Zone Management Federal Consistency Review, U.S. Fish and Wildlife Service Threatened and Endangered Species Consultation (under Section 7 of the Endangered Species Act), Massachusetts Division of Marine Fisheries and NOAA Essential Fish Habitat Analysis, and Section 106 of the National Historic Preservation Act. We refer you to the February 2017 letter for additional factors concerning federal regulation and authorities, the affected state Area of Critical Environmental Concern, "Outstanding Resource Waters" and Special Aquatic Site (SAS) designations. The applicant would need to complete all applicable compliance and consultation processes, with oversight and approval of the NPS, before a Special Use Permit could be authorized to initiate these activities.

We have been consistent with comments to the Woods Hole Group when drafting the 2016 Nauset Estuary Dredging Feasibility Assessment. Superintendent Price described the

complications related to the disposition of the dredge material within the seashore boundary, and that the use of dredge material anywhere in the seashore boundary would trigger a NEPA process because of a range of concerns related to the dredge material, potential impairment of significant resources, and the need to adequately assess impacts before proceeding.

Below are some initial staff concerns about the Nauset Estuary Dredging Feasibility Assessment per your request; however, as much as it is your intent to facilitate the scoping process, we cannot fully weigh in until we have the opportunity to consider the environmental impacts of both projects and the range of alternatives to be evaluated. We note that the feasibility report states that it has not yet been determined if a MEPA Environmental Impact Report (EIR)/Development Of Regional Impact (DRI) Joint Filing would be required. If a EIR/DRI is required, it could be prepared as a joint MEPA/NEPA document that would fulfill both state MEPA and NPS NEPA requirements. However, if it is determined that the project does not require a MEPA EIR/DRI, then the applicant would be responsible for preparing a separate NEPA document (EIS or EA) to fulfill NPS NEPA requirements, in addition to completing all other applicable federal compliance requirements (listed above). Once the MEPA EIR/DRI determination has been made, we can then discuss the necessary process for completing NPS NEPA requirements.

NPS PRELIMINARY CONCERNS REGARDING PROPOSED NAUSET ESTUARY DREDGING

2.5 Ecological Resources

Aquatic Vegetation (SAV) Resources

We have specific concerns regarding the study's assertion there was no evidence of eelgrass beds. Recent NPS visual surveys found that there are beds in the vicinity of Priscilla Landing to the barrier beach and along the proposed Southern Channel. The eelgrass bed goes to the current channel edge in some places. Because time of year can affect eelgrass observations, we recommend a repeated methodology for surveying for eelgrass populations. This activity should also extend into any maintenance dredging period that is ultimately approved as the population locations can change.

2.6 Red Tide

We continue to have concerns regarding the dredging of sediments containing *Alexandrium* cysts and would like to see further evaluation of the liberation of the fine sediments in the Southern Channel and Town Cove where higher concentrations of cysts are known to be present. Furthermore, due to the life span of cysts, immediate impacts are not the only concern, so seasonality of dredging is only a partial solution. We request a longer-term analysis during the environmental impact review process.

3.0 Dredge and Disposal Plan Formulation, 3.2 Dredge Zone Layout

As discussed in the January 17, 2017 meeting, the dredge zone will likely need to be better

defined for an environmental impact assessment. We have major concerns about permitting such a large footprint, even though the intention is not to dredge the entire zone. The dredge zone comprises a huge percentage of the subtidal/intertidal flat area of the Nauset Marsh System. The main channel dredging zone will impact blue mussel beds and other shellfish and invertebrates, and are within areas known to be used extensively by endangered and threatened shorebirds.

3.3 Potential Alternatives for Placement

NEPA review would be required for depositing sediments sub-tidally in the ponds, on marsh surfaces, or on marsh islands/hummocks and the spit owned by NPS; research would need to be extensive and NPS may not have the ability to permit such disposal activities.

We are also concerned that dredging the southern channel, as well as the main channel may have impacts on the stability of the barrier beach, and could, under certain hydrodynamic conditions, strain the system to a breach point caused by human rather than natural forces.

Sensitive wildlife species, shoreline change, and land ownership are also serious considerations for this element, and should also be noted on p.34 and in the table on p. 47.

The report cites Town-owned portion of Nauset Spit on the top of p.36, but it does not say that the NPS has maintained its ownership of several parcels on Nauset Spit for decades, and only recently has Orleans contested that ownership. This issue is essential to dredge materials placement. It must be an integral element of the impact analysis.

4.3 Regulatory Feasibility

The statement that this dredge plan “would not require additional federal permitting because of its location within the CCNS” is inaccurate for the reasons stated above and our prior letter. The town, state and federal land ownership should be clarified through the combined federal EA or EIS or EA and state Environmental Impact Report (EIR) processes. Additionally, the marsh restoration section clearly identifies NPS-owned areas under consideration.

I hope this information helps as you move forward with the NEPA and MEPA processes. We can provide guidance on executing NEPA documents for National Park units, and have been party to other combined EIS or EA/EIR/Development of Regional Impact (DRI) documents. Please let me know if you have any questions.

Sincerely,



Kathy Tevyaw
Interim Superintendent

cc:
N. Sears
J. Kelley