



US Army Corps
of Engineers®
New England District

Maine Project Office
442 Civic Center Drive, Suite 350
Augusta, Maine 04330

PUBLIC NOTICE

Date: June 29, 2021
Comment Period Ends: July 29, 2021
File Number: NAE-2004-02472
In Reply Refer To: Jay L. Clement
Or by e-mail: jay.l.clement@usace.army.mil

30 DAY NOTICE

The District Engineer has received a permit application from the applicant below to **conduct work in waters of the United States** as described below. The Corps is soliciting comments on both the project itself and the range of issues to be addressed in the environmental documentation.

APPLICANT: MAINE DEPT. OF TRANSPORTATION, 16 STATE HOUSE STATION, AUGUSTA, MAINE 04333

ACTIVITY: Place temporary and permanent fill below the ordinary high water mark of Eaton and Felts Brooks, their tributaries, and in their adjacent freshwater wetlands between Brewer and Eddington, Maine in order to construct a 6.1 mile connector between the terminus of I-395 at Brewer and Route 9 at Eddington. The project will result in approximately 23.3 acres of permanent and 13.8 acres of temporary wetland impact, and 0.5 acres of permanent and 0.1 acres of temporary stream bed impact. The work will include the construction of a two-lane, limited access roadway and is designed to improve regional system linkage, public safety, and the current and future flow of traffic and goods & services between I-395 and Route 9.

To compensate for the project's projected unavoidable impacts to waterways and wetlands, the applicant is proposing to purchase and preserve in perpetuity approximately 1,628 acres of mixed wetlands and uplands on two parcels off either side of Mann Hill Road at Holden, Maine (see attached plan). The Maine DOT intends to transfer ownership and management of the property to the Maine Department of Inland Fisheries and Wildlife (MDIFW). The applicant is proposing this measure seeking to lessen the project's impact on aquatic resources. This notice solicits comments on these proposed measures from the interested or affected public as well as those agencies who speak to the public interest. It also solicits recommendations for alternative sites or measures not yet identified by the applicant. After receipt of the comments, the Corps of Engineers will obtain any necessary additional information from the applicant and determine whether the proposed measures are practicable and serve to help mitigate this project's unavoidable impacts.

WATERWAY AND LOCATION OF THE PROPOSED WORK: Felts and Eaton Brooks, their tributaries, and their adjacent freshwater wetlands between Brewer and Eddington, Maine. The project begins at latitude 44.77150°N; and longitude -68.72170°W (Brewer) and ends at latitude 44.81860°N; and longitude -68.64670°W (Eddington), on the USGS VEAZIE, ME quadrangle sheet.

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).

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 Corps of Engineers 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. Any comments received will be considered by the Corps of Engineers 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.

Where the activity involves the discharge of dredged or fill material into waters of the United States the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

ESSENTIAL FISH HABITAT (EFH): 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").

In water construction at the site will impact Essential Fish Habitat ("EFH") for Atlantic salmon. The Federal Highway Administration (FHWA) has consulted with the National Marine Fisheries Service. Although FHWA has taken the lead in this consultation, the District Engineer has made the preliminary determination that the site-specific adverse effect will not be substantial. Any consultation with the National Marine Fisheries Service regarding EFH conservation recommendations will be concluded prior to the final decision on this project.

SECTION 106 COORDINATION: FHWA has consulted with the Maine Historic Preservation Commission and Maine's Indian Tribes pursuant to Section 106 of the National Historic Preservation Act of 1966 as amended. Although FHWA has taken the lead in this consultation, the District Engineer has determined that the proposed work is not likely to affect properties listed in, or eligible for listing in, the National Register of Historic Places. FHWA and the Corps will continue review and consultation to fulfil requirements under the Historic Preservation Act as part of the permit review process.

ENDANGERED SPECIES ACT CONSULTATION: FHWA has consulted with the US Fish & Wildlife Service pursuant to Section 7 of the Endangered Species Act regarding the presence of Atlantic salmon and

Atlantic salmon critical habitat and Northern Long-Eared Bats. Although FHWA has taken the lead in this consultation, the District Engineer is hereby requesting that the appropriate Federal Agency also provide comments to the Corps regarding the presence of and potential impacts to listed species or critical habitat.

OTHER APPROVALS: The applicant has supplied the Maine Department of Environmental Protection with a permit application for the work described in this public notice and is requesting that the Department either grant or waive Water Quality Certification in accordance with Section 401 of the Clean Water Act. Comments regarding the applicant's Permit/Water Quality Certification request may be submitted in writing to: Nick Livesay, Director, Bureau of Land Resources, Department of Environmental Protection, 17 State House Station, Augusta, ME, 04333-0017 or by email to: Nick.Livesay@maine.gov

On September 17, 2004, the Corps of Engineers issued a public notice in support of a preliminary application from the Maine DOT at the time, in order to help us determine which of a number of project alternatives should be carried forward to a future final application. Maine DOT identified Alternative 2B-2 as their preferred alternative. In their Environmental Impact Statement (EIS), the FHWA identified this alternative as their environmentally preferred alternative and the build alternative. The FHWA EIS may be viewed at: <https://www.maine.gov/mdot/projects/I395rt9connector/materials/>

Maine DOT has now submitted a final application in support of the 2B-2 alternative. In order to now properly and more fully evaluate this proposal, we are again 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 Jay Clement at 207-623-8367, ext. 1 at our Augusta, Maine Project Office.

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 Corps 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.

For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.

Frank J Del Giudice
Digitally signed by Frank J Del Giudice
Date: 2021.06.23 06:45:48 -04'00'
Frank J. Del Giudice
Chief, Permits and Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____
ADDRESS: _____