



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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November 15, 2018

Todd Randall
U.S. Army Corps of Engineers
New England District
696 Virginia Road
Concord Massachusetts 01742

Subject: Draft Environmental Impact Statement (DEIS) and Draft Integrated Feasibility Report for the New Haven Harbor Navigation Improvement Project, New Haven, Connecticut (EIS No. 20180224)

Dear Mr. Randall:

The U.S. Environmental Protection Agency (EPA) has reviewed the U.S. Army Corps of Engineers (USACE) DEIS pursuant to our responsibilities under the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The DEIS evaluates the potential impacts of proposed deepening and widening of the existing USACE New Haven Harbor Federal Navigation Project (FNP). The USACE FNP in New Haven was completed in 1950 and last maintained in 2014 when approximately 830,000 cubic yards of shoal material was dredged. The new improvement dredging includes deepening the main ship channel, maneuvering area and turning basin, and widening the primary channel and turning basin to allow deep draft vessels to efficiently access the port terminals. The proposed project proposal includes dredging approximately 4.28 million cubic yards of silty material and blasting and removal of 43,500 cubic yards of rock from the channel. Most of the dredged material will be disposed at the Central Long Island Sound Disposal Site (CLDS) and some of the sediment will be beneficially used to create shellfish (oyster) habitat, a saltmarsh, and to fill two existing borrow pits in the harbor. The blasted rock will be used to create a reef. Overall increased water depths in the FNP created by the project will result in transportation cost savings for port users and will make operations at the Port of New Haven more efficient.

While EPA supports this dredging effort, our attached comments identify General Conformity issues that should be considered during project development and offer suggestions regarding project design measures that could be implemented to help avoid impacts during the dredging, disposal and use of dredged material generated by the project. We intend to continue to work closely with the USACE to help address these important issues.

Effective October 22, 2018, EPA will no longer include ratings in our comment letters. Information about this change and EPA's continued roles and responsibilities in the review of

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federal actions can be found on our website at: <https://www.epa.gov/nepa/epa-review-process-under-section-309-clean-air-act>.

EPA appreciates the opportunity to review this DEIS. If you have any questions regarding our comments, please contact me at 617/918-1025 or timmermann.timothy@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Timmermann".

Timothy Timmermann, Director
Office of Environmental Review

EPA Detailed Comments on the Draft Environmental Impact Statement and Draft Integrated Feasibility Report for the New Haven Harbor Navigation Improvement Project, New Haven, Connecticut, September 2018

General Conformity

The New Haven Harbor Navigation Improvement Project is situated in New Haven County, Connecticut. New Haven County (as part of the New York-N. New Jersey-Long Island, NY-NJ-CT air quality control region) is designated by the EPA as a moderate non-attainment area under both the 2008 and the 2015 8-hour ozone standards. The area is designated as attainment for all other NAAQS (see 40 CFR §81.307).

Projects located within a non-attainment area must be evaluated for applicability to the Federal General Conformity regulations found at 40 CFR 93.150-165. Specifically, if the total of direct and indirect emissions of a criteria pollutant or precursor in a non-attainment or maintenance area caused by a Federal action would equal or exceed the applicability thresholds established in 40 CFR 93.153, the requirements of general conformity must be satisfied. The *de minimis* General Conformity applicability thresholds are listed in 40 CFR 93.153.

The estimated project emissions included in Appendix L of the DEIS for the New Haven Harbor FNP indicate that emissions will not exceed either the 100 tons per year (tpy) *de minimis* General Conformity applicability threshold for NO_x or the 50 tpy threshold for VOCs. According to the DEIS, the proposed project estimated annual NO_x and VOC emissions for the three construction years of the project are 79.83 tpy of NO_x and 11.28 tpy of VOC for year one, 99.06 tpy of NO_x and 114.28 tpy of VOC for year 2, and 73.71 tpy of NO_x and 10.42 tpy of VOC for year three. Under the current non-attainment classification for New Haven County the estimated project emissions would not trigger General Conformity.

However, the USACE should be aware that under the 2008 8-hour ozone standard, New Haven County is subject to reclassification to serious non-attainment due to failure to attain the 2008 8-hour ozone NAAQS by the July 20, 2018 attainment date (see 40 CFR 51.1103). As was explained during a recent conversation with USACE Resources Section program staff, EPA has published a notice of proposed rulemaking in the Federal Register that includes reclassification of New Haven County to serious non-attainment (83 FR 56781). The *de minimis* threshold in a serious non-attainment area is 50 tpy for both NO_x and VOCs. Reclassification could affect the USACE's General Conformity applicability analysis for the project.

Recommendation: EPA requests the opportunity to consult and coordinate with the USACE and the State of Connecticut Department of Energy and Environmental Protection regarding the relationship between the timing of USACE's General Conformity applicability analysis and the future reclassification of New Haven County. Please contact Mr. John Rogan of EPA's Air Unit at 617/918-1645 or rogan.john@epa.gov to discuss project General Conformity issues in greater detail.

Reducing Diesel Emissions

The DEIS includes a general commitment to limit construction and use “clean” equipment. Given the public health concerns about diesel exhaust from heavy duty diesel trucks and other heavy-duty construction equipment, EPA encourages the USACE to commit to the use of newer vintage diesel engines whenever possible. Alternatively, we encourage the USACE to require diesel retrofits whenever practicable, require the use of cleaner fuels, and institute idle reduction measures to minimize emissions from diesel construction equipment. Retrofit technologies may include EPA verified emission control technologies and fuels and CARB-verified emission control technologies. A list of these diesel exhaust control technologies can be accessed at <https://www.epa.gov/verified-diesel-tech/manufacturer-contact-list-clean-diesel>. A list of approved idle reduction technologies can be found on the Agency’s SwartWay site here: <https://www.epa.gov/verified-diesel-tech/smartway-verified-list-idling-reduction-technologies-irts-trucks-and-school>. We also encourage operator training to reduce unnecessary idling of equipment to supplement the adoption of these technologies.

The Northeast Diesel Collaborative has prepared model construction specifications to assist in developing contract specifications that would require construction equipment to be retrofitted with control devices and use clean fuels to reduce diesel emissions. The model construction specifications can be found on the Northeast Diesel Collaborative web site <http://northeastdiesel.org/pdf/NEDC-Construction-Contract-Spec.pdf>.

Recommendation: We recommend that the USACE identify specific exhaust emission mitigation measures to help reduce and minimize the air quality impacts from construction of the proposed project in the FEIS and more fully describe how commitments to these measures will be secured from the contractors selected to perform project related construction.

Outstanding Technical and Design Issues for Unsuitable Material Disposal

EPA previously concurred with the USACE suitability determination that project sediments are acceptable for ocean disposal except for dredged material in the general vicinity of the port terminals represented by Composites 6 and 7. This material is to be disposed in a Confined Aquatic Disposal (CAD) cell. EPA supports this approach and notes that additional analysis and design work will be necessary to implement this approach.

Recommendation: EPA requests the opportunity to continue to coordinate with the USACE on the design and implementation of the CAD cell for the unsuitable dredge material. If available, updated information should be provided in the FEIS regarding the CAD cell design, location, and development resulting from this coordination.

Beneficial Use of Dredged Material

Consistent with the goal of EPA’s 2016 rule to modify the designation of the Central Long Island Sound Disposal Site, which is to “reduce or eliminate open-water disposal of dredged material.” EPA agrees with the overall strategy to use dredged material to establish habitat for oysters, fill in existing borrow pits to create winter flounder habitat, and create a salt marsh and a rock reef.

Development of each of these disposal/use options will require thoughtful design, planning and coordination. The DEIS commits to developing and coordinating “adaptive management and corrective actions related to [the] salt marsh creation placement site.”

Recommendation: EPA appreciates the USACE commitment to coordinate on the salt marsh creation portion of the project. We recommend that the USACE coordinate closely with all cooperating agencies and we intend to continue to work with the USACE on the design of each of the beneficial use projects. Mr. Ed Reiner (617/918-1692 or reiner.ed@epa.gov) will serve as the point of contact for the salt marsh creation work and Ms. Jeannie Brochi (617/918-1536 or brochi.jean@epa.gov) will serve as the EPA point of contact for all of the other beneficial use projects.

Measures to Avoid and Minimize Impacts

EPA generally agrees with the list of actions proposed to “minimize adverse impacts to natural and economic resources.” We support the implementation of the identified time-of-year restrictions to protect sensitive life stages of fish and shellfish in the project areas during dredging and disposal activities. We concur that prohibition on barge overflow during the dredging associated with the project will help minimize impacts.

While suitable for ocean disposal, the dredged material contains elevated levels of metals, Total PAHs and Total PCBs that should be fully considered in the context of habitat restoration. Not all the dredged material is necessarily desirable for habitat restoration due to the potential for adverse effects to benthic organisms. As identified in Appendix J, the majority of inner harbor stations (except D,H, I, and X) had detectable concentrations of metals, Total PAHs, Total PCBs, and pesticides that were above the effects-range low (ERL) but below the effects-range medium (ERM) values which describe how contaminant levels equate to the probability for toxic effects. A subset of inner harbor stations had concentrations of certain metals (copper, mercury, and zinc), Total PAHs, or Total PCBs that were above the ERM. Sub-samples with ERM exceedances were more common in the extreme inner harbor stations near the turning basin and terminals. Use of this material for habitat creation would introduce a stressor to the environment increasing the risk for reduced species diversity and survival.

Recommendation: EPA recommends that the habitat restoration work prioritize the use of sediments from the outer harbor over more contaminated inner harbor sediments.