

COMPATIBILITY DETERMINATION

USE:

Dredging in Oyster Bay National Wildlife Refuge at Seawanhaka Yacht Club

REFUGE NAME:

Oyster Bay National Wildlife Refuge

DATE ESTABLISHED:

September 26, 1968

ESTABLISHING AND ACQUISITION AUTHORITY:

Migratory Bird Conservation Act (16 U.S.C 715-715R)

REFUGE PURPOSE:

"... for use as an inviolate sanctuary, or for any other management purpose, for migratory birds."
(16 U.S.C. §715d) Migratory Bird Conservation Act

NATIONAL WILDLIFE REFUGE SYSTEM MISSION:

To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

DESCRIPTION OF USE:

(a) What is the use? Is the use a priority public use?

The use is maintenance dredging in Oyster Bay National Wildlife Refuge (NWR, refuge) by Seawanhaka Yacht Club (SYC), to achieve historical water depths for safe navigation of vessels and provide boat access to their facility. Maintenance dredging is regulated by the U. S. Army Corps of Engineers (USACE), New York Department of Environmental Conservation (NYDEC), and Town of Oyster Bay (Town). In the past, a Special Use Permit (SUP) was issued to perform this use (1969), and a SUP was also denied in 1981. Maintenance dredging is not a priority public use of the National Wildlife Refuge System; however it does allow access for boat owners to engage other priority public uses including fishing, hunting, and wildlife observation and photography.

(b) Where would the use be conducted?

Oyster Bay NWR is situated in the town of Oyster Bay, New York, and encompasses approximately 3,000 acres of bay bottom and water column. Wildlife present includes waterfowl, shorebirds, wading birds, and a variety of fish and invertebrate benthic organisms. The maintenance dredging would occur at SYC, located at 314 Yacht Club Rd Centre Island, Oyster Bay, New York. The docks are legal refuge docks 31, 32, 33, and 33a. A legal dock means that they are grandfathered in at the time of refuge establishment, and they have been maintained in useable condition to date.

(c) When would the use be conducted?

Dredging would occur between November 1, 2014 and January 15, 2015.

(d) How would be use be conducted?

SYC would dredge approximately 2,750 cubic yards of material from the Service Dock Area of approximately 28,150 square feet; approximately 470 cubic yards of material from the Main Dock Area of approximately 5,000 square feet; and approximately 740 cubic yards of material from the Travel Lift Approach Area of approximately 10,000 square feet. The dredge depth will be 2 to 4 feet below the existing depths (Map 1). The total area proposed for dredging is therefore 43,150 square feet (0.99 acre) with 3,960 cubic yards of spoil. Dredging shall be performed using a clamshell dredge or similar closed-bucket device. Spoil shall then be transported to the Western Long Island Sound Disposal Site and/or Central Long Island Sound Disposal Site for open water disposal in accordance with permit conditions. Proposed dredge spoil was tested for contaminants on September 20, 2012 in accordance with the Sediment Sampling and Analysis Plan prepared April 2012 by USACE. Results are presented in the Seawanhaka Corinthian Yacht Club Vibratory Core Sediment Sampling and Analysis report (Steele Associates Marine Consultants, LLC, October 2012).

(e) Why is this use being proposed?

Maintenance dredging would help maintain water depth at existing legal docks at SYC facilities. It also allows access to navigable waterways in Oyster Bay. Dredging near and around docks is a reasonable expectation and necessary to assure safe and economical use of the docks.

Dredging has been permitted at other locations in Oyster Bay when shown that this activity had occurred before the refuge's creation. In review of historical papers, a reference to dredging Seawanhaka goes as far back as 1911. Furthermore, a permit for dredging was issued in 1969 by the Bureau of Sport Fisheries and Wildlife (Fish and Wildlife Service) noting that the Town of Oyster Bay retained bottom rights. In 1981, a SUP was denied based on language of the indenture which stated that the property be returned to Oyster Bay if it is not kept in a natural state. This denial was overruled by the Town which claimed the rights to sand and gravel and allowed the dredging to proceed. The Service's response was to acquiesce to the Town's ownership.

AVAILABILITY OF RESOURCES:

The bulk of the cost to the refuge for maintenance dredging is incurred in staff time to review dredging proposals, coordinate with contractors, write Special Use Permits, and conduct site visits during the actual dredging project. In some cases, a dredging project may only require one day of staff time to write a SUP. In other cases, a project may require weeks of staff time. A senior

refuge biologist spends an average of two weeks a year working on dredging proposals and conducting site visits to dredging projects during years when dredging permits are issued. At an hourly wage of approximately \$40 (for a GS-12), this adds up to about \$3,200 for hours, and should include another 20% for transportation and other resources for a rough total of \$3,840 spent on years that dredging is proposed.

ANTICIPATED IMPACTS OF THE USE:

The area to be dredged is minor in size, has been dredged previously, and is in a heavily used boating area. During the summer, more than 200 boats are moored here. No endangered or threatened wildlife use the area, with the possible exception of sea turtles which would possibly transit the area but would not be present in the winter months when dredging would occur. Minor foraging by migratory waterfowl has been observed, but is not considered to be important foraging habitat. Negligible displacement could potentially occur during dredging, but no significant migratory waterfowl patterns would be impacted as a result of dredging. A 1981 bottom survey revealed no bottom vegetation, with the bottom being mainly mud with limited invertebrates present. The report also noted oyster dredging taking place near the proposed area (i.e., assumed to be just outside the mooring zone). Overall, the dredging is expected to have minor impacts to an area already heavily affected by boat, harbor, and shellfish operations.

PUBLIC REVIEW AND COMMENT:

A public notice will be published in a local Oyster Bay newspaper, as well as the refuge's website, to inform the public this draft Compatibility Determination is available for public review for a 15-day period. Substantive comments received will be addressed prior to finalization.

DETERMINATION (check one below):

- Use is not compatible
- Use is compatible, with the following stipulations

STIPULATIONS NECESSARY TO ENSURE COMPATIBILITY:

- Dredging will be permitted between November 1, 2014 to January 15, 2015. Protection of wintering waterfowl habitat begins on January 15 through May 1, and during this time no dredging will be permitted. Additional seasonal restrictions are in place to protect foraging piping plover, least terns, and osprey from April 15 through September 1. Thus, no dredging can occur anytime between January 15 and September 1
- Permittees must notify the refuge manager at least 48 hours before dredging will commence and within 48 hours of project completion.
- Each piece of equipment working on the project site will have spill prevention supplies onboard.

JUSTIFICATION:

Allowing this activity at Oyster Bay National Wildlife Refuge will not materially interfere with or detract from the mission of the National Wildlife Refuge System, or the purpose for which the refuge was established.

SIGNATURE:

Refuge Manager: _____
(Signature) (Date)

CONCURRENCE:

Regional Chief: _____
(Signature) (Date)

MANDATORY 10 YEAR RE-EVALUATION DATE: _____

LITERATURE CITED:

Newell, R. C., Seiderer, L. J., and Hitchcock, D. R. 1998. The impact of dredging works in coastal waters: a review of the sensitivity to disturbance and subsequent recovery of biological resources on the seabed. *Oceanogr. and Mar. Biol.: Ann. Rev.* 36: 127-178.

Oliver, J. S., Slattery, P. N., and Hulberg, L. W. 1977. Patterns of succession in benthic infaunal communities following dredging and dredged material disposal in Monterey Bay. US Army Waterways Experiment Station Technical Report D-77-27, 1-186.

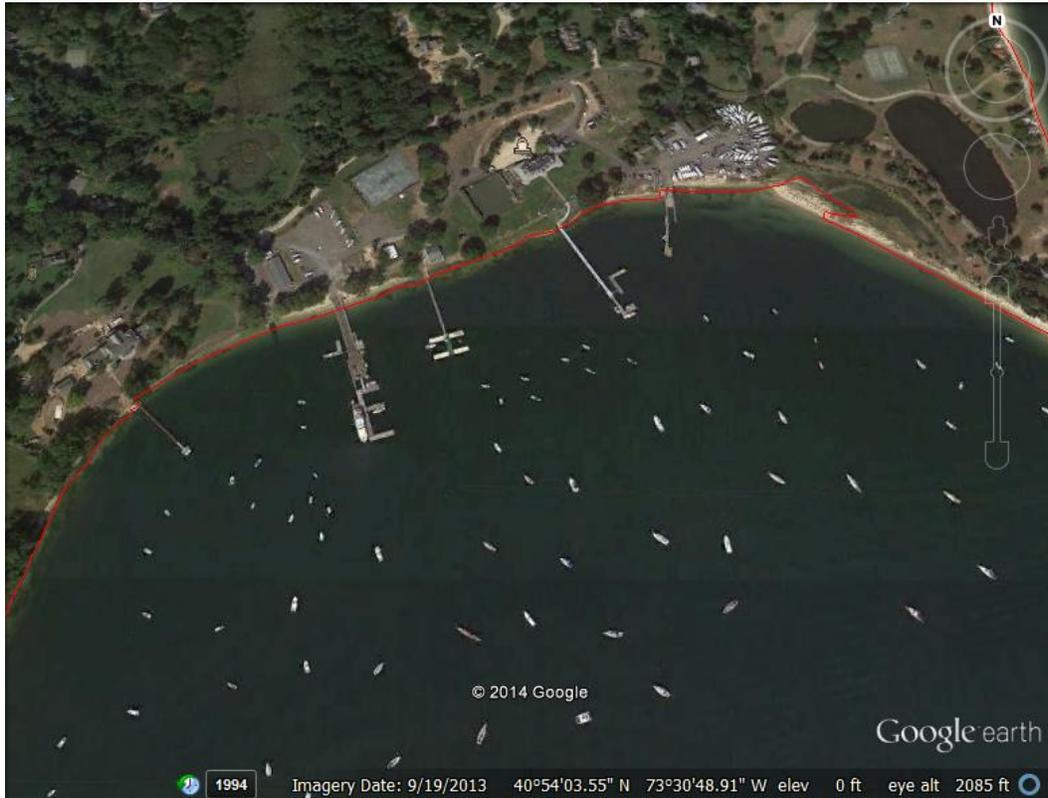
Quigley, M. P. and Hall, J. A. 1999. Recovery of macrobenthic communities after maintenance dredging in the Blyth Estuary, north-east England. *Aquat. Conserv.: Mar. and Freshw. Ecosys.* 9: 63-73.

Rosenberg, R. 1977. Effects of dredging operations on estuarine benthic macrofauna. *Mar. Pollut. Bull.* 8: 102-104.

Scott, J. G. and Pine, R. E. 1975. Environmental effects of dredging and spoil disposal. *J. Water Pollut. Control* 47: 553-561.

Windom, H. L. 1972. Environmental aspects of dredging in estuaries. *Journal of the Waterways, Harbors and Coastal Engineering Division* 98: 475-487.

Map 1. Location of proposed dredging site at Oyster Bay NWR. Dredged spoils will be placed in an approved disposal site in the Long Island Sound.



Map 2. Location of proposed dredging site at Oyster Bay NWR.

