1. Project Overview

1.1. Introduction

The proposed project is an expansion of the existing Safe Harbor Rockland marina to provide additional and improved docking capacity and infrastructure, particularly for transient vessels (i.e., vessels staying for relatively short periods of time at the marina). The subject site, located at 60 Ocean Street in Rockland, Maine, is owned by Safe Harbor Marinas (SHM) and consists of 4.78 acres which includes the intertidal land along the entire frontage of the parcel. The proposed expansion of the marina facility would occur in Rockland Harbor and adjacent to the Rockland Harbor Channel.

The project's general location is shown in Figure 1.1-1, below.

Figure 1.1-1: Project Location

An existing marina at the site provides approximately 720 linear feet (lf) of side-tie dockage for a wide variety of vessels up to 200 feet (ft) in length. An aerial image of the existing marina facility is provided in Figure 1.1-2.

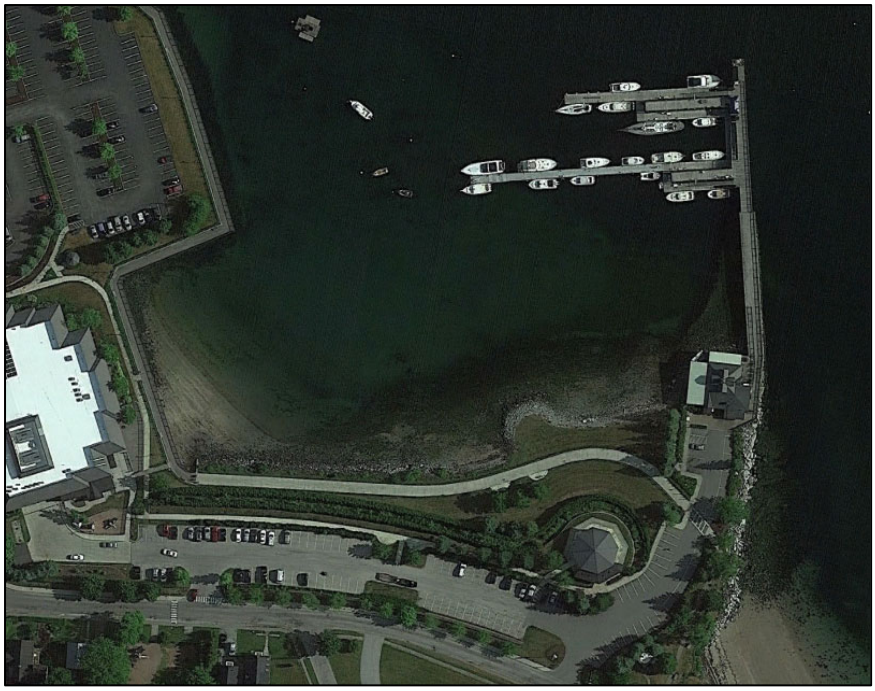

Figure 1.1-2: Existing Marina and Site

An environmental assessment (EA) is required to ensure compliance with the National Environmental Policy Act (NEPA). Specifically, an EA is required as the marina expansion project would be funded in part with federal funds via a Boating Infrastructure Grant (BIG) awarded for the project through the United States Fish and Wildlife Service (USFWS, the federal grant funding agency). The Maine Department of Transportation (MDOT, the state grant funding administration agency) is the grant recipient and would pass the federal funding monies through to SHM.

This EA analyzes various alternatives: a no-action alternative and three action alternatives, including the Proposed Action. The EA assesses the potential impacts that the identified alternatives may have on the physical and social environment.

1.2. Proposed Action

The Proposed Action would expand the existing marina to provide more slips and new/improved utilities at the subject site. Key components of the Proposed Action include dredging, installation of new floating docks and associated utilities, installation of a new fixed gangway access platform and 80' ADA-compliant gangway, improvements to an existing upland gazebo, and a landward extension of an existing fixed pier. See Section 2.1.4 for a complete description of the Proposed Action. Drawings illustrating the Proposed Action are provided as Appendix A.

1.3. Purpose and Need

The purpose of the Proposed Action is to provide additional and improved dockage, new/improved marina utilities and amenities, enhanced experience for the boating public, and enhanced recreational opportunities for the general public.

Rockland Harbor is currently underserved by the existing marina facilities in the harbor. More specifically, the proposed marina expansion would provide additional dockage for transient vessels, in keeping with

the BIG program's intended purpose to "construct, renovate, and maintain tie-up facilities with features for transient boaters in vessels 26 feet or more in length".

The need for the project is demonstrated by a shortage of available dockage for recreational vessels, particularly transient vessels, in Rockland Harbor. There are currently only four (4) commercial marinas located in Rockland that offer transient dockage (including the subject facility). The amount of dockage available at these facilities is insufficient to meet current and anticipated demand for transient dockage, noting that the need for additional transient dockage in the harbor is provided for general context and project understand and has little to no bearing on the environmental impacts associated with the project.

1.4. Compliance with Applicable Statutes, Regulations and Guidelines

Use of the federal BIG funding for the project is contingent on compliance with local, state, and federal laws and regulations. Regulatory authorizations for the Proposed Action have been sought and approved by both state and federal entities as memorialized in the following approved permits and authorizations:

- MDEP Beneficial Use of Dredged Material Permit (reference MDEP permit No. S-022546-W3-A-N, Appendix B.1)
- MDEP Natural Resources Protection Act (NRPA) Permit (reference MDEP NRPA permit No. L-20376-4P-P-N/L-20386-4E-Q-N, Appendix B.2)
- USACE Maine General Permit (GP) Authorization Letter (reference USACE permit No. NAE-2021-01934, Appendix B.3)

Agency review during the approvals process for the above-referenced permits included consultation with various state and federal entities related to the applicable statutes, regulations, and guidelines considered in this EA. Please see the following list of applicable agencies that were consulted with through the process:

- U.S. Army Corps of Engineers
- NMFS, USFWS, EPA through USACE regulatory authority and consultation (reference permits in Appendix B)
- Maine Department of Environmental Protection
- Maine Historic Preservation Commission
- Maine Department of Marine Resources
- Maine Department of Inland Fisheries and Wildlife
- Maine Natural Areas Program
- State-Recognized Tribes: Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe of Indians, and Penobscot Indian Nation
- City of Rockland, Maine
- Rockland Board of Harbor Commissioners

Elements of this project that required demonstration of compliance with applicable statues, regulations and guidelines considered in this EA are described in the following sections. It is noted that permit issuance by the various regulatory authorities is predicated on compliance with the appropriate regulatory frameworks of the issuing entities.

1.4.1. Historical and Current Land Use

The Farmland Protection Policy Act (FPPA) requires federal programs to minimize actions that contribute to the irreversible conversion of farmland, particularly prime and unique farmland, to other uses. The FPPA specifically excludes areas that are water and urban built-up land under existing conditions. Based on these two criteria, the proposed project area would not constitute farmland as identified by the U.S. Department of Agriculture (USDA) and, therefore, has been dismissed as a potential impact in this EA.

1.4.2. Air Quality and Noise

The U.S. Environmental Protection Agency (EPA) is authorized by the 1990 Clean Air Act Amendments (CAAA) and the National Ambient Air Quality Standards (NAAQS) to protect public health and welfare by regulating emissions of hazardous air pollutants. MDEP collaborates with local, state, and federal agencies to implement strategies to protect Maine's air quality and administer air quality programs under the Clean Air Act and state law. It monitors air quality across the state, licenses emissions from larger facilities, and conducts compliance assistance and inspection visits.

Under authority of the CAAA, the EPA established the National Ambient Air Quality Standards (NAAQS) that define allowable limits for atmospheric concentrations of various criteria air pollutants. Primary standards are established at levels designed to protect the public health. Secondary standards are established at levels designed to protect the public welfare by accounting for the effects of air pollution on vegetation, soil, materials, visibility, and other aspects of the general welfare. Standards for the following pollutants are provided in the NAAQS: carbon monoxide (CO), sulfur dioxide (SO_2), nitrogen dioxide (NO_2), ozone (O_3), Lead (Pb), and particulate matter (PM 2.5, particles less than or equal to 2.5 micrometers in diameter).

The project is not a significant source of these pollutants given that it is an expansion of an existing use that is in compliance with the relevant regulatory requirements. Vessels in the facility will utilize gasoline or diesel engines when navigating to and from the marina berths. Combustion engines of this type are regulated at the manufacturer level to ensure that they are in compliance with federal regulatory requirements. The increase in air pollution discharge associated with the expansion of the facility is minimal and similar to current practice. Shore power will be provided to the docks to encourage the use of electrical power from the local grid as opposed to generating power through the vessels' onboard gas or diesel fueled generators, noting that onboard generators are more typical on larger vessels and not all vessels visiting the marina will have onboard gas/diesel generators.

Moderate noise impacts may be expected during the construction of the proposed marina expansion. Specifically, pile driving activities are expected to present the most significant potential for increases in ambient noise levels in the immediate vicinity of the project. However, pile driving activities will be conducted in accordance with any established City noise ordinances, will be conducted during normal daylight hours, and will be temporary in nature. These noise impacts during construction will be no greater than is typical for construction activities of this type.

Once construction is complete, the primary potential for long-term noise impacts will arise from increased boat traffic approaching or leaving the marina due to the use of gasoline or diesel engines when underway. A high volume of boat traffic is already present within this part of the harbor and engines of this type are regulated at the manufacturer level to ensure compliance with applicable federal noise standards. Specifically, nearby uses include a cruise ship terminal, boat mooring field, commercial tugboat operation, and passenger ferry terminal that generate higher levels of noise than the increase in recreational vessels that will be visiting the expanded marina facility. As such, the Proposed Action will result in *de minimis* increases to long-term ambient noise levels in the vicinity of the project.

1.4.3. Water Resources

The Clean Water Act (CWA) provides the federal regulatory authority for the restoration and protection of the chemical, physical, and biological integrity of the nation's waters. Activities conducted below ordinary high water (OHW) within navigable waters of the United States are also regulated through the Rivers and Harbors Act of 1899. The construction of wharfs, piers, jetties, and other structures in navigable waterways are specifically regulated under Section 10 of the Rivers and Harbors Act.

The existing marina is located adjacent to Rockland Harbor, which has a marine water classification zone of SC per Maine's designated use and classification system. Class SC waters are the third highest classification and as defined by §465-B of the Maine Revised Statutes (Title 38: Waters and Navigation) have the following characteristics:

- Class SC waters must be of such quality that they are suitable for recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as a habitat for fish and other estuarine and marine life.
- The dissolved oxygen content of Class SC waters must not be less than 70% of saturation. There are specific levels that enterococcus bacteria of human and domestic animal origin need to be at.
- Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to receiving waters and maintain the structure and function of the resident biological community.

The Proposed Action is an expansion of existing use of the facility which is in compliance with relevant regulatory requirements relative to water resources. The discharge associated with the Proposed Action is limited to clean water and partial dredge dewatering, which are acceptable discharge types for SC zone waters. Additional water and wastewater needs for the proposed marina expansion will be provided by the City of Rockland municipal water systems. As such, the Proposed Action is in compliance with applicable regulatory requirements.

Executive Order 11998, Floodplain Management, requires that actions of federal agencies avoid to the extent possible the adverse impacts associated with the modification of floodplains. The Federal Emergency Management Agency (FEMA) has published a Flood Insurance Study (FIS) for Knox County that identifies the elevation of the 1 percent annual exceedance probability (commonly known as the 100-year flood event) for the project area. The Proposed Action is in compliance with applicable FEMA floodplain requirements for construction.

The Proposed Action does not include filling in the floodplain and the extent of bathymetric modification is insufficient to alter local water conveyance. The Proposed Action does not restrict the flow of water or adversely affect the projected flood elevations of the area.

1.4.4. Biological Resources

The USFWS and National Oceanic and Atmospheric Administration (NOAA) are responsible for overseeing and assessing potential impacts to species listed as endangered or threatened under the Endangered Species Act (ESA). Consultation with these agencies regarding relevant ESA species was a requirement for issuance of the existing USACE permit for this project. Under the ESA, NOAA has jurisdiction over listed marine mammals, marine fish, and sea turtles and USFWS has jurisdiction over all other listed species.

Maine's Endangered Species Program was developed via the passage of the Maine Endangered Species Act (MESA) in 1975. Maine's Department of Inland Fisheries and Wildlife (MDIFW) implements MESA. The Commissioner of the Department of Marine Resources has the authority to list and conserve endangered and threatened marine species in the state. Endangered and threatened plants are the responsibility of Maine's Department of Agriculture, Conservation and Forestry through the Maine Natural Areas Program.

USFWS's Maine Ecological Services Field Office (MESFO) has been consulted with regard to potential threatened or endangered species that may be present in the proposed project area or affected by the Proposed Action as required by Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S. Code 1531 et seq.,). An Official Species List of potential threatened or endangered species in the area of the Proposed Action was provided by USFWS and MESFO and is included as Appendix C. The listed and candidate species identified by MESFO that may be potentially impacted and the anticipated effects of the Proposed Action on each is described in Table 1.4.4-1.

Table 1.4.4-1: USFWS MESFO Potentially Impacted Species

Table 1.4.4-1: USFWS Maine Ecological Services Field Office - Potentially Impacted Species			
Species Name	**Scientific Name**	**Description**	**Anticipated Effects**
Northern Long-eared Bat	*Myotis septentrionalis*	The Northern Long-eared Bat is a threatened species under 50 CFR Part 17 (Citation Page 81 FR 2470724714) and is currently being considered for Endangered status. The 4(d) Final Rule for the Northern Long Eared Bat restricts alterations to potential hibernacula (caves, mines, and other locations where bats hibernate in winter) as well as activities involving tree removal.	As the Proposed Action does not involve any alterations to hibernacula or removal of trees, the Proposed Action will have **No Effect on the species**.
Roseate Tern	*Sterna dougallii dougallii*	The Roseate Tern is a nesting bird species categorized as endangered in the Northeastern U.S., including Maine. Per 50 CFR Part 17 (Citation Page 52 FR 4206442068), the primary potential impacts of concern for the species that could potentially occur from the Proposed Action is related to destruction, modification, or curtailment of its habitat or range, and specifically impacts to the birds' nesting areas which typically occurs on small coastal islands.	Given that the Proposed Action is an expansion of an existing use and occurs water and will not affect any known existing or potential nesting grounds or habitat for this species, the Proposed Action will have **No Effect on the species**.
Atlantic Salmon	*Salmo salar*	The Atlantic Salmon is an endangered fish species in the Gulf of Maine (GOM) Distinct Population Segment (DPS) Per 50 CFR Part 17 (Citation Page 74 FR 2934429387), dams are among the leading causes of both historical declines and contemporary low abundance of the GOMDPS of Atlantic Salmon. Reduction in habitat complexity, habitat connectivity, water quantity, and water quality are also cited factors in species abundance and reproduction rates.	Given that the proposed action is located in an active harbor and is not anticipated to result in direct or indirect impacts to the habitat complexity/connectivity, and water quantity/quality, the Proposed Action is **not likely to adversely affect the species**.
Monarch Butterfly	*Danaus plexippus*	The Monarch Butterfly is a candidate species and is not yet listed or proposed for listing as either threatened or endangered. Per 50 CFR Part 17 (Citation Page 85 FR 8181381822), the primary threats to the specie's biological status includes the loss and degradation of habitat from conversion of grasslands to agriculture, widespread use of herbicides, logging operations, and similar human activities.	Given that the Proposed Action will occur over-water and will not impact potential habitat for the Monarch Butterfly, the Proposed Action will have **No Effect on the species**.

Note: See full MESFO Official species list in Appendix D.

In addition to the listed species identified by USFWS/MESFO and discussed above, NOAA threatened species in the New England/Mid-Atlantic region that may be potentially impacted by the project were identified and considered in this analysis. These species and the anticipated effects of the Proposed Action on each is described in Table 1.4.4-2.

Table 1.4.4-2: NOAA Potentially Impacted Species

Table 1.4.4-2. NOAA T&E Directory, New England/Mid-Atlantic Region			
Species Name	**Scientific Name**	**Description**	**Anticipated Effects**
Atlantic Salmon	*Salmo salar*	The Atlantic Salmon designated as an endangered fish species in the Gulf of Maine (GOM) Distinct Population Segment (DPS). According to NOAA's species directory, dams are among the leading causes of both historical declines and contemporary low abundance of the GOMDPS of Atlantic Salmon. Reduction in habitat complexity, habitat connectivity, water quantity, and water quality are also cited factors in species abundance and reproduction rates.	Given that the proposed action is located in an active harbor and is not anticipated to result in direct or indirect impacts to the habitat complexity/connectivity, and water quantity/quality, the Proposed Action is **not likely to adversely affect the species**.
Atlantic Sturgeon	*Acipenser oxyrhynchus oxyrhynchus*	The Atlantic Sturgeon is designated as a threatened species in the GOM DPS. According to NOAA's species directory: Primary threats to the species are entanglement in fishing gear, habitat degradation, habitat impediments such as dams and other barriers, and vessel strikes.	Given that fishing is not likely to occur in the active marina, the Proposed Action will not increase potential for entanglement fishing gear. Further, the Proposed Action will have no or negligible effects on habitat, will not cause habitat impediments, and will not significantly increase the likelihood for vessel strikes due to the existing active nature of the harbor for both commercial and recreational navigation, the Proposed Action is **not likely to adversely affect the species.**
Green Turtle	*Chelonia mydas*	The Green Turtle is designated as a threatened species within the North Atlantice DPS. Green Turtles are typically found in shallow tropical and sub-tropical waters as well as along coastline beaches in temperate regions that utilize major current systems when migrating to nesting areas. They are not typically found in cooler nearshore waters such as those at the subject site and their presence in the northern oceanic waters are more likely to occur in the warmer offshore waters of the gulf stream. According to NOAA's species directory: Primary threats include fishing bycatch, loss of habitat, vessel strikes, poaching, ocean pollutants and marine debris.	Given the species' propensity to inhabit coastal waters farther south or the offshore waters of the gulfstream (in northern areas), this species is not likely to frequent the waters in the project area. Further, there are no known breeding grounds for this species in the immediate project vicinity. Given the low likelyhood of frequent presence in the project area, the Proposed Action is **not likely to adversely affect the species.**
Kemp's Ridley Turtle	*Lepidochelys kempii*	The Kemp's Ridley Turtle is designated as endangered throughout its range which includes the New England/Mid Atlantic region. The Kemps Ridley Turtles are a migratory species which spends nearly all of its life in the water in relative isolation. While the species can be found as far north as Maine, Nova Scotia, and Newfoundland on occasion, their primary habitat is in the warmer, temperate waters of the Gulf of Mexico. According to NOAA's species directory: Primary threats include fishing bycatch, loss of habitat, vessel strikes, poaching, ocean pollutants, marine debris, and climate change.	Given the species propensity to inhabit coastal waters farther south (specifically the Gulf of Mexico), this species is not likley to frequent the waters in the project area, though it is possible that they could be present in the summer months on very rare occasions. As such the Proposed Action is **not likely to adversely affect the species.**
Leatherback Turtle	*Dermochelys coriacea*	Leatherback Turtles are designated as endangered throughout there entire range which includes the New England/Mid-Atlantic region. The Leatherback Turtle is considered a pelagic species most often found in tropical waters but are known to inhabit temperate oceans around the world and may travel as far north as Maine, Nova Scotia, and Labrador. They are primarily pelagic, but will enter coastal waters when searching for food. According to NOAA's species directory, the Leatherback Turtles primary threats include: fishing bycatch, loss of habitat, vessel strikes, poaching, ocean pollutants, marine debris, and climate change.	Given the species tendency to stay in warmer offshore waters and primary habitats in more temperate or tropical regions, this species is not likely to frequent the waters in the immediate project area, though it is possible that they could be in the area on rare occasions. Further, there are no known breeding grounds for this species in the immediate project vicinity. Given the low likelyhood of frequent presence in the project area and that breeding areas will not be affected, the Proposed Action is **not likely to adversely affect the species.**

table continued on following page

Table 1.4.4-2. NOAA T&E Directory, New England/Mid-Atlantic Region (cont.)			
Species Name	**Scientific Name**	**Description**	**Anticipated Effects**
Loggerhead Turtle	*Caretta caretta*	The Loggerhead Turtle is designated as a threatened species within the Northwest Atlantic Ocean DPS. Loggerhead turtles are a migratory species found in nearly all temperate and tropical oceans throughout the world. In the Atlantic they can be found from Newfoundland to Argentina but typically prefer temperate and tropical regions. During winter months these turtles migrate to tropical and subtropical waters. Juveniles are typically found among drifting *Sargassum* mats in warm ocean currents while older juveniles and adults are more often found in coastal waters. According to NOAA's species directory: The greatest cause of decline is thought to be incidental capture in fishing gear. Lesser causes of decline include beachfront development, disturbance of nexting femailes, and harvesting of adult turtles and eggs for human consumption.	While the species typically prefers warmer/temperate or coastal waters, they are highly migratory and It is possible that this species may be found in the project area on relatively infrequent occasions. There will be no fishing allowed at the project site and the amount of vessel traffic to/from the marina in the harbor will not significantly increase the commercial and recreational activities in the harbor. As such, there is no potential for inadvertant capture and the potential for vessel strikes is not significantly increased over current conditions. As such, the Proposed Action is **not likely to adversely affect the species.**
Shortnose Sturgeon	*Acipenser brevirostrum*	The Shortnose Sturgeon is designated as an endangered species in the GOM DPS. According to NOAA's species directory: Primary threats to this species are habitat degradation, water pollution, dredging, water withdrawals, fisheries bycatch, and habitat impediments (e.g., dams).	The proposed action includes as limited amount of dredging (~16,000 cy of excavated material) which could potentially affect the habitat during construction activities. Given that the dredging activities are limited in scale, will not cause significant changes in water quality over existing conditions, and does not involve any impediments to their habitat, the Proposed Action is **not likely to adversely affect the species.**
Sperm Whale	*Physeter macrocephalus*	The Sperm Whale is designated as endangered throughout its range which includes the New England/Mid-Atlantic region. The Sperm Whale has one of the widest global distributions of any marine mamal species. They hunt during deep dives and routinely reach depths of 2,000 feet. According to NOAA's species directory: Primary threats to the sperm whale include: vessel strikes, entaglement in fishing gear, ocean noise, marine debris, oil spills and containants, and climate change.	Given the relatively shallow waters and existing commercial and recreational activities in Rockland Harbor, this species is not expected to be found in the immediate project area and the Proposed Action is **not likely to adversely affect the species.**

Federally funded projects must also comply with the regulations associated with Essential Fish Habitat (EFH) as required by the Magnusson Stevens Fisheries Conservation Act. Species in the region for which EFH may be located at or near the subject site are listed in the NOAA EFH Mapper Report which is included as Appendix H and summarized in Table 1.4.4-3.

Table 1.4.4-3: NOAA EFH Mapper Report - Listed Species

Table 1.4.4-3: NOAA EFH Mapper Report - Listed Species	
Species Name	**Scientific Name**
Atlantic Sea Scallop	*Placopecten magellanicus*
Atlantic Wolffish	*Anarhichas lupus*
Winter Flounder	*Pseudopleuronectes americanus*
Little Skate	*Leucoraja erinacea*
Ocean Pout	*Zoarces americanus*
Atlantic Herring	*Clupea harengus*
Atlantic Cod	*Gadus morhua*
Pollock	*Pollachius*
Red Hake	*Urophycis chuss*
Silver Hake	*Merluccius bilinearis*
White Hake	*Urophycis tenuis*
Windowpane Flounder	*Scophthalmus aquosus*
Winter Skate	*Leucoraja ocellata*
American Plaice	*Hippoglossoides platessoides*
Smooth Skate	*Malacoraja senta*
Thorny Skate	*Amblyraja radiata*
Blufin Tuna	*Thunnus thynnus*
Atlantic Mackerel	*Scomber scombrus*
Bluefish	*Pomatomus saltatrix*

Given that the Proposed Action will occur at an existing marina facility in an existing active harbor, the potential impacts to EFH and associated species are minimal. Additionally, Best Management Practices (BMPs) for minimizing impacts to aquatic life activities will be implemented and applicable regulatory conditions will be adhered to throughout the course of construction activities. Specifically, the Proposed Action will be conducted in accordance with the special conditions of the USACE permit No. NAE-2021-01934 (Appendix B.2) and in keeping with the Essential Fish Habitat (EFH) conditions delineated in the EFH Determination Sheet (Appendix D), as follows:

- All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.

- Pile driving shall use a soft start technique in order to minimize potential effects to federally listed species. The soft start technique shall occur as follows: an initial set of three strikes for 15 sec. at reduced energy followed by a 1-minute waiting period between subsequent three-strike sets, followed immediately by pile driving at full rate and energy. The soft-start procedure shall be reinstated any time pile driving ceases for more than 30 minutes.

Assuming proper implementation of the BMPs and compliance with the permit special conditions, temporary impacts to endangered or threatened species are considered *de minimis* and there are no anticipated long-term direct or indirect adverse impacts to any endangered or threatened species or EFH.

1.4.5. Cultural Resources

The National Register of Historic Places (NHRP) lists cultural resources which are resources (e.g., building, site, structure, object, or district) that must generally be at least 50 years old and possess integrity of location, design, setting, materials, workmanship, feeling, and association and must possess a quality of significance in American history, architecture, engineering, and culture. In addition, the resource must meet at least one of the following four Criteria for Evaluation defined by the National Park Service:

- Association with events that have made a substantial contribution to the broad patterns of our history

- Association with the lives of persons significant in our past

- Embodiment of the distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a substantial and distinguishable entity whose components may lack individual distinction

- Yielding or demonstrating the potential to yield information important in prehistory or history

The National Historic Preservation Act (NHPA) of 1966, requires federal agencies to consider the effects of their undertakings on properties in or eligible for inclusion in the National Register. In accordance with the regulations, impacts to cultural resources were identified and evaluated by the following:

- Determining the area of potential effect

- Identifying cultural resources present in the area of potential effect that were either listed on or eligible for listing on the National Register

- Applying the criteria of adverse effect to affected cultural resources either listed on or eligible for listing on the National Register

- Considering ways to avoid, minimize, or mitigated adverse effects

Compliance with NHPA requires consultation with the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Officer (SHPO), through the Maine Historic Preservation Commission,

if there are possible effects to historic properties. The Commission is responsible for the identification, evaluation, and protection of Maine's significant cultural resources.

The Proposed Action has been reviewed by the Maine Historic Preservation Commission in accordance with Section 106 of the NHPA, and no historic properties will be affected by the Proposed Action. Documentation to this effect is provide in Appendix E.

1.4.6. The Socioeconomic Environment and Environmental Justice

Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898) requires all federal agencies to incorporate environmental justice into their missions by identifying and addressing the disproportionately high and/or adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities.

The EPA defines environmental justice as the "…fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies" (EPA, 2016). The goal of "fair treatment" is not to shift risks among populations, but to identify potentially disproportionately high and adverse effects and identify alternatives that may mitigate these impacts.

The Proposed Action is an expansion of an existing use and would not result in any identified human health effect or effects that would be specific to any minority or low-income community and would not disproportionately affect any minority or low-income population or community. There would be no direct or indirect adverse impacts on any minority or low-income population.

1.4.7. Hazardous Materials

Nationally, the Resource Conservation and Recovery Act (RCRA) is used to regulate and manage hazardous materials and waste. In addition, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides spill reporting requirements for RCRA hazardous wastes (40 CFR 261.30-33), toxic or hazardous materials listed in Sections 307 or 311 of the Federal Water Pollution Control Act/CWA (40 CFR 129 and 40 CFR 117), and hazardous air pollutants listed pursuant to Section 112 of the CAA (40 CFR 61).

MDEP has issued state regulations, called the Maine Hazardous Waste Management Regulations, Chapters 850 through 857, for the safe management and transportation of hazardous wastes. The state also maintains the Voluntary Response Action Program (VRAP), which allows applicants to voluntarily investigate and cleanup properties to the MDEP's satisfaction in exchange for protections from MDEP enforcement actions. The VRAP is intended to encourage the cleanup and redevelopment of contaminated properties within the state.

MDEP has a Spills & Site Cleanup Division and a Hazardous Waste Division that provide guidance for the investigation of spills and remediation of releases of hazardous materials. There are procedures to be used by responsible parties and their consultants to determine what actions are needed to clean up hazardous material releases and contamination.

The project includes a dredging component to allow safe navigation for the larger boats that the marina expansion will accommodate. Samples of the dredge area were analyzed for total metals, volatiles and semi-volatiles, polychlorinated biphenyls (PCBs), hexavalent chromium, and dioxins. With the exception of arsenic, all the constituent levels were below the levels necessary to beneficially use the dredge material in accordance with the reduced procedures provisions of 06-096 Code of Maine Rules (CMR) Chapter 418, § 7(A)(3). The arsenic levels ranged from 17 to 28 milligrams per kilogram (mg/kg). The allowable limit under 06-096 CMR Chapter 418, § 7(A) is 16 mg/kg, and the screening level in 06-096 CMR Chapter 418, is 7.9 mg/kg. The levels of arsenic are above the allowable limit for clean fill, so a Beneficial Use Permit (No. S-022546-W3-A-N) was obtained from MDEP for the one-time beneficial use of dredge material as part of a gravel pit reclamation project in Cushing, Maine. Documentation to this effect is provided in Appendix B.1.

There are no other known areas of contamination in the area of work, and there are no actions proposed that constitute the need to manage or transport hazardous waste during or after construction.

The Proposed Action is an expansion of an existing use and the management of hazardous materials associated with the operational phase of the project will remain the same as those in place for the existing marina facilities.