



United States Department of the Interior

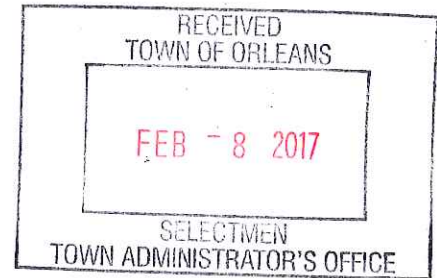
NATIONAL PARK SERVICE
Cape Cod National Seashore
99 Marconi Site Road
Wellfleet, MA 02667

IN REPLY REFER TO:

L1425/L7617

February 6, 2017

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



Dear Ms. Fields,

The purpose of this letter is to document a preliminary response of the National Park Service (NPS) to two important coastal studies being considered by the Town of Orleans. The first project involves the dredging of the navigation channel from Town Cove through Nauset Marsh to the inlet. The second involves the phased retreat of the beach facilities at Nauset Beach. I have stated the NPS supports the dredging project if it is necessary for public safety of navigation and the phased retreat of public beach facilities makes sense and matches the seashore approach as well.

We met with you and representatives from the Woods Hole Group on January 17th where you presented your most recent thinking up to this point on both projects. You followed up with questions at the Citizens Forum and with your January 25th e-mail. I understand you have a meeting on February 8th and you were hoping to receive our complete comments by that time. Unfortunately we only received access to your report after our January 17th meeting, and two of our principal subject matter experts will not be in their offices for the entire month of February, so we will not be able to address the material until after their return.

What I did want to share with you is what we can say about these projects at this time. First, we approved the concept of the phased retreat on Nauset Beach during the discussions last year when we worked with the town to put a trail across NPS property as a safety access from the upper parking lot. The plan seemed reasonable then and does now. Our request is that future relocations of facilities do not impact visitors who use the neighboring Nauset Knolls Motel. We agree with your thoughtful approach and I will address the addition of sand to support the dunes below.

We met with representatives from the Woods Hole Group when they were drafting the 2016 Nauset Estuary Dredging Feasibility Assessment. We discussed the dredging proposal at the time and had a productive discussion. The discussion included developing an agreement to use NPS property to lay equipment and hoses on a temporary basis. The one message I left with them was the complications related to the disposition of the dredge material within the seashore boundary. I referred them to our experience with the Town of Chatham. This is the first opportunity we have had to see the development of the next step and proposed dredge disposal locations.

Here is our preliminary response following the outline of the options as described in your January 25th e-mail.

Option 1 Support the Nauset Beach phased retreat project with beach sand other than dredge material.

The issue here will be to obtain compatible sand which would pass the Conservation Commission and CCNS sediment compatibility review. As stated at the meeting on the 17th, the sand from other sources should be compatible with the existing conditions. We believe beach sand would be appropriate to build dunes at the Town beach. The source should be local and should match current grain size and composition characteristics. A NEPA review or other permits would not be necessary from our perspective for this project, as described, which is similar to our support for the Town of Truro at Balston Beach; on Town land but within the seashore boundary. The coordination you describe in this section with CCNS staff would allow us to assist with the review and would be sufficient. You do describe "upland sand source" and "sand and gravel sites" which would be problematic if the grain sizes did not match or the material contained clay, mud, or gravel.

Deposition sites should be mapped beforehand so that habitat types and values are understood. Deposited material should be monitored after replacement to document how long they last compared to naturally occurring sand.

Option 2 Include dredged sand source material for beach retreat project or for the proposed Nauset Spit locations identified in the preliminary plan, or any other location within seashore boundary.

We discussed at the January 17th meeting 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.

Nauset Marsh is a Massachusetts Area of Critical Environmental Concern (ACEC).

<http://www.mass.gov/eea/agencies/dcr/conservation/ecology-acec/areas-of-critical-environmental-concern-acec.html>

Like all waterways within CACO it is an "Outstanding Resource Water" subject to Massachusetts Surface Water Quality Standards, 314 CMR 4.00 (WQS). According to 314 CMR 4.04(3): "Certain waters are designated for protection under this provision in 314 CMR 4.06. These waters include class A Public Water Supplies (314 CMR 4.06 (1)(d)1.) and their tributaries, certain wetlands as specified in 314 CMR 4.06(2) and other waters as determined by the Department based on their outstanding socio-economic, recreational, ecological and/or aesthetic values. The quality of these waters shall be protected and maintained." And, under Code of Federal Regulations, Sec 404, it is a Special Aquatic Site (SAS)

National Park Service regulations clearly state that the NPS retains jurisdiction in "Waters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of tide and up to the ordinary high water mark in other places) and without regard to ownership of submerged lands, tidelands, or lowlands" (36 CFR sec 1.2(a)(3)).

The Seashore is directed not to interfere with navigation of waters within the Seashore "by such means and in such areas as is now customary," and therefore will not regulate the dredging to maintain navigation as has been customary, but the disposal of dredging spoils does not fall within this statutory exception. Application of dredge materials to near shore areas are of significant concern to the NPS and would require a Special Use Permit from NPS. Before issuing such a permit, NPS would have to comply with all procedural requirements, including the National Environmental Policy Act (NEPA), Coastal Zone Management Act, Endangered Species Act, and others.

This would certainly require an Environmental Assessment and could trigger a full Environmental Impact Statement.

I hope this information helps to clarify the NPS position. We will complete our response once my colleagues return to the office. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "George E. Price, Jr.", written in a cursive style.

George E. Price, Jr.
Superintendent

cc: N. Sears
J. Kelley