



**US Army Corps
of Engineers®**

New England District

DRAFT ENVIRONMENTAL ASSESSMENT

CONTINUING AUTHORITIES PROGRAM

Section 14 – Emergency Shoreline Protection

Pleasant Point Reservation Washington County, Maine

August 2017

Prepared by:

U.S. Army Corps of Engineers
New England District
Concord, Massachusetts

FINDING OF NO SIGNIFICANT IMPACT

Pleasant Point Reservation Washington County, Maine Section 14 Emergency Shoreline Protection

The proposed shoreline protection project is to prevent ongoing erosion along an approximately 1,500± linear foot section of shoreline in front of tribal housing and other tribal facilities on the Pleasant Point Reservation. The Pleasant Point Reservation is home to members of the Passamaquoddy Tribe. If erosion is not addressed the tribal housing and infrastructure may be destroyed or seriously damaged by coastal storms and erosion.

Authority for this project is contained under Section 14 of the 1946 Flood Control Act (as amended), 33 U.S.C. § 701r. Section 14 allows the U.S. Army Corps of Engineers (USACE) to participate in the planning and construction of economically justified erosion protection projects in situations where public facilities are threatened. Due to the emergency nature of the erosion, there is a streamlined implementation process allowing the project study and design to be completed concurrently in an abbreviated time frame.

Alternatives considered include: no action, relocation of existing housing, and construction of a rip-rap revetment. The recommended alternative is the construction of a rip-rap revetment which will tie into the southern section of a newly constructed 300 ft revetment along the shoreline in front of the tribal owned WWTP. The preliminary design of the stone rip rap revetment consists of a geotextile fabric overlain by an 18 inch layer of core stone, an 18 inch layer of under stone and a 42 inch thick layer of armor stone rip-rap on a 1:1.5 vertical to horizontal slope.

Under the Council on Environmental Quality (CEQ) NEPA regulations, “NEPA significance” is a concept dependent upon context and intensity (40 C.F.R § 1508.27). When considering a site-specific action like the proposed project, significance is measured by the impacts felt at the local scale, as opposed to a regional or nationwide context. The CEQ regulations identify a number of factors to measure the intensity of impact. These factors are discussed below, and none are implicated here to warrant a finding of NEPA significance. A review of these NEPA “intensity” factors reveals that the proposed action would not result in a significant impact – neither beneficial nor detrimental-to the human environment.

Impacts on public health or safety: The project is expected to increase public health and safety by stabilizing the embankment at the mean higher high water (MHHW) line and controlling erosion that is threatening Tribal housing and other facilities.

Unique characteristics: There are no unique characteristics within the proposed project area.

Controversy: The proposed project is not controversial. State and Federal resource agencies agree with the USACE’s impact assessment.

Uncertain impacts: The impacts of the proposed project are not uncertain; they are readily understood based on past experiences from this project and other similar USACE projects.

Precedent for future actions: The proposed project is construction of a revetment. In the future, the Tribe may request extension of the revetment to protect additional sites.

Cumulative significance: As discussed in the EA, to the extent that other actions are expected to be related to the project as proposed, these actions will provide little measurable cumulative impact.

Historic resources: As per coordination with the Tribal Historic Preservation Office of the Passamaquoddy Tribe, the project will not have any adverse effect on any significant cultural or historical resources.

Endangered species: The project will have no known negative impacts on any State or Federal threatened or endangered species.

Potential violation of state or federal law: This action will not violate federal or state laws.

Based on my review and evaluation of the environmental effects as presented in the Environmental Assessment, I have determined that the Pleasant Point Reservation, Emergency Shoreline Protection Project, Washington County, Maine is not a major Federal action significantly affecting the quality of the human environment. This project, therefore, is exempt from requirements to prepare an Environmental Impact Statement.

Date

William M. Conde
Colonel, Corps of Engineers
District Engineer

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1 INTRODUCTION

This Environmental Assessment (EA) addresses the potential environmental effects associated with construction of a revetment at the Pleasant Point Reservation near Perry, Maine under the Section 14 - Emergency Shoreline Protection program. Potential environmental impacts from the proposed project were evaluated for compliance with current federal laws, regulations, Executive Orders, and Executive Memorandums. This document complies with Council on Environmental Quality (40 Code of Federal Regulations (CFR) 1500 to 1508) and U.S. Army Corps of Engineers NEPA regulations (33 CFR 230) for implementing the National Environmental Policy Act (NEPA) of 1969. NEPA requires the Federal government to consider environmental effects of a proposed action and solicit comments from interested agencies, groups and the public.

The EA serves as a disclosure document that describes the proposed action and alternatives, environmental resources in the affected area, and the environmental effects of the proposed action. The EA also provides decision makers with sufficient information to determine whether a Finding of No Significant Impact (FONSI) or a more elaborate review, cumulating in preparation of an Environmental Impact Statement is appropriate.

1.1 Purpose and Need

The purpose of the proposed emergency shoreline protection project is to prevent ongoing shoreline erosion in front of tribal housing, a church and a senior center at the Pleasant Point Reservation in Washington County, Maine by constructing a 1,500 ft. long rip-rap revetment (Figure 1). The project will be located in the same footprint as a failed revetment previously constructed by USACE in the 1980's. The prior revetment failed due to improper construction; much of the stone used was not the proper size or weight and the required stone bedding beneath was non-existent. The proposed revetment design is anticipated to be similar to the original design, but new data will be incorporated into the design to account for site changes and to ensure adequate protection. The proposed revetment project will tie into the southern section of a newly constructed 300 ft. revetment project in front of the tribal owned Waste Water Treatment Plant (WWTP).



Figure 1 - Project location

1.2 Project Authority

Project authority is contained under the special continuing authority in Section 14 of the 1946 Flood Control Act (as amended), 33 U.S.C. § 701r. Section 14 allows the U.S. Army Corps of Engineers (USACE) to participate in the planning and construction of economically justified erosion protection projects, in cooperation with the local sponsor, in situations where public facilities are threatened. Due to the emergency nature of the erosion, there is a streamlined implementation process allowing the project study and design to be completed concurrently in an abbreviated time frame. The authority requires a complete comprehensive solution to solving the immediate erosion problem in a manner that does not obligate or imply future federal participation. Once projects are completed they are turned over to the local non-federal sponsor. To meet time and cost targets, the Section 14 guidelines emphasize a significant reliance on professional judgment with a sufficient level of detailed analysis to determine the recommended plan. Each project is assessed in terms of its effectiveness in preventing future erosion damages to the public infrastructure, long and short-term ecological effects, public acceptability and cost effectiveness.

2 PROJECT DESCRIPTION

The proposed shoreline protection project will prevent ongoing erosion in front of tribal housing and other tribal facilities on the Pleasant Point Reservation. The Pleasant Point Reservation is home to members of the Federally recognized Passamaquoddy Tribe. The shoreline area to be protected is approximately 1500± linear feet in length. The preliminary design of a 36 ft wide stone riprap revetment consists of a geotextile fabric overlain by an 18 inch layer of core stone, an 18 inch layer of under stone and a 42 inch thick layer of armor stone riprap on a 1:1.5 vertical to horizontal slope (figure 2). Construction is expected to take four to six months as work will only be completed when the tide is out. The proposed revetment will tie into the southern section of a newly constructed 300 ft. revetment in front of the tribal owned WWTP. The 300 ft. revetment project was constructed in October and November of 2016 under the direction of the Passamaquoddy Tribe as part of a FY 2016 HUD “Imminent Threat” grant.

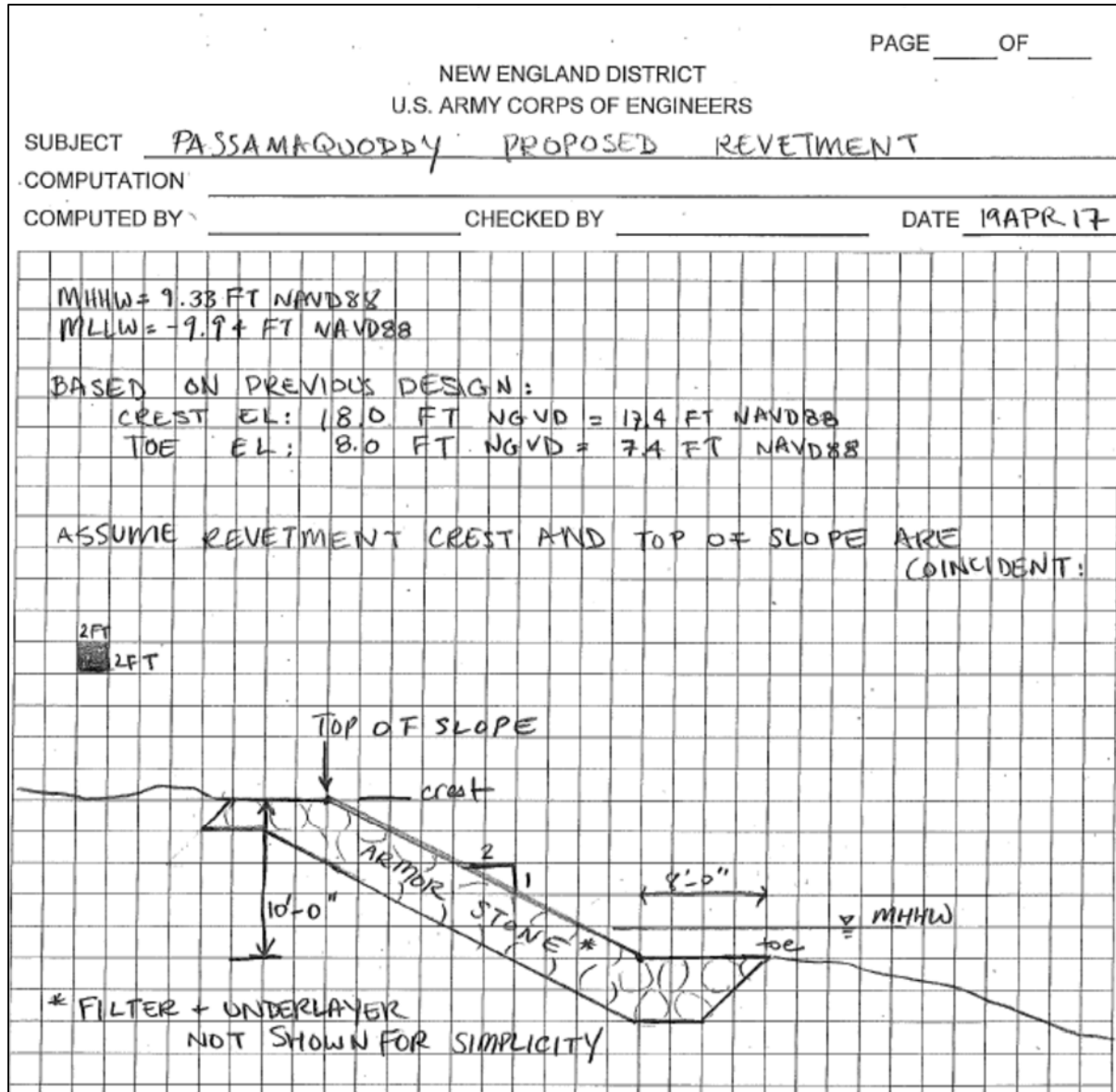


Figure 2 - Proposed Revetment

3 ALTERNATIVES

Three initial alternatives were identified for discussion in this EA: no action, relocation of existing housing away from the erosion, and construction of a revetment. During the Federal Interest Determination, it was determined that due to the narrow geographic focus, the imminent threat to the housing and facilities, and the amount of funding available, formulation and evaluation would focus on the least cost alternative solution, which was construction of a revetment. Therefore, this EA only evaluates the no action alternative and construction of a revetment because the relocation of existing housing is too cost prohibitive and potentially would be more harmful to the environment.

3.1 No Action Alternative

Inclusion of a no action alternative is prescribed by CEQ regulations to serve as a benchmark against which proposed federal actions can be evaluated. The no action alternative refers to the continuation of existing conditions of the affected environment, without implementation of the proposed action. Under the no action alternative erosion of the beach front will continue and the adjacent housing will be damaged or destroyed. The indirect effects will then include the disruption of other lands on the reservation to re-build new housing, the need to demolish the damaged housing and potentially the need to relocate people outside the reservation, if suitable land is not available for construction of new housing. Relocation of people outside the reservation will likely have negative social impacts. The costs of demolishing damaged housing and the construction of new housing, plus the social disruption necessary when temporarily or permanently relocating persons living in homes likely to be destroyed makes the no action alternative unacceptable.

3.2 Relocation of existing housing

This alternative consists of relocation of existing housing and associated infrastructure (roads, sheds, etc) away from the shoreline. The cost of relocation is substantially greater than that of construction of a revetment. Most importantly, the lead-time time necessary to move the housing is likely to be longer than the time before damage to existing housing is likely to occur. Additionally, the potential environmental costs associated with disturbance of: undisturbed land at a new construction site, land where the homes are currently located during demolition and that required when moving utilities are expected to be much greater than placement of a revetment. Relocation of existing housing would likely be cost prohibitive and more harmful to the environment, this alternative is not considered viable and will not be discussed further.

3.3 Construction of a rip-rap revetment (Preferred alternative)

Constructing a 1,500 ft. riprap revetment along the 1,500 ft. section of eroding shoreline to protect tribal housing is the preferred alternative. This alternative is likely to be completed before damage to the housing occurs, is expected to have minimal environmental effects, and will protect housing.

4 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

4.1 General Setting

The proposed shoreline protection project is located in the intertidal zone and uplands along the eastern shoreline of the Pleasant Point Reservation, home to members of the Passamaquoddy Tribe (Figures 3 and 4). The Reservation consists of its original 100 acres, plus 112 acres of annexed land authorized by the State of Maine (wabanakitrail.org, accessed 4/17/17). The Reservation is located approximately 2 miles south-east of the main portion of Perry, Maine on Passamaquoddy Bay. Passamaquoddy Bay is part of the Bay of Fundy and makes up part of the United States and Canadian border. The Bay of Fundy has the highest tidal range in the world, the tide range in the Passamaquoddy Bay area is approximately 20 ft.



Figure 3 - Area along proposed revetment



Figure 4 - Looking south in the area for the proposed revetment

4.2 Surface water and water quality

4.2.1 Affected Environment

The waters adjacent to Pleasant Point are designated by Maine Department of Environmental Protection (MEDEP) as SB. Waters in this classification are designated for recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life (Maine Revised Statutes 465-B). The most recent integrated water quality monitoring and assessment report (2014) places Pleasant Point in category 5-B-1(b) (MEDEP, 2014). Category 5 includes estuaries/coastal waters that are impaired or threatened for one or more designated uses by a pollutant(s) and a total

maximum daily load (TMDL) is required. The waters adjacent to Pleasant Point are impaired for bacteria only, the source was identified as the Publically Owned Treatment Works (POTW), which is the tribal owned WWTP referred to earlier in this EA.

4.2.2 Environmental consequences

No significant direct or indirect environmental impacts to surface water or water quality are expected as a result of the proposed project. During construction, the beach will be exposed to erosion as the substrate is excavated to place the bedding and riprap. This will cause minor increases in suspended solids in the vicinity of the work. To the extent practicable and to facilitate construction, the work will be completed when the intertidal zone is not flooded, minimizing the effects of equipment working within the intertidal zone. After construction, erosion will be reduced resulting in an overall reduction in turbidity.

4.3 Biological Resources

4.3.1 Affected Environment

The proposed project will occur in the intertidal and upland areas. Due to the large tidal range, the intertidal area is quite large. The intertidal zone in the proposed project area consists of sand, gravel, cobble and large rocks (Figures 3 and 4). No Maine designated essential habitat is located in the intertidal area adjacent to the project. Maine defines essential habitat as nesting, feeding or brooding area for the following three state endangered species: piping plover, least tern and roseate tern. Upland vegetation consists of turf grass and shrubs.

No Seabird nesting islands nor shorebird habitat are located directly adjacent to the project. The closest area of shorebird habitat (feeding and roosting areas) is ¼ mile away to the south (Figure 5). An area of tidal waterfowl and wading bird habitat (TWWH) is located adjacent to project to the north (Figure 5). Shorebird habitat and TWWH are both considered significant wildlife habitat under the Maine Natural Resources Protection Act (NRPA). As such, a permit is required when an activity is located in, on or over any protected natural resource. TWWH includes eelgrass beds mapped by MEDEP that are at least 2.5 acres in size, mussel bars/beds, emergent wetlands at least 2.5 acres in size and mudflats at least 12.5 acres in size or adjacent to one of the above habitats such that the resulting complex is at least 2.5 acres in size (<http://www.maine.gov/ifw/wildlife/environmental/mdifw/significant.html>, accessed 4/18/17). The TWWH adjacent to the project area is mudflat habitat.

The U.S. Fish and Wildlife Service (USFWS) lists five migratory bird species that may be found in the project area: Bay-breasted Warbler (*Dendroica castanea*), Black-billed Cockoo (*Coccyzus erythrophthalmus*), Great Cormorant (*Phalacrocorax carbo*), Hudsonian Godwit (*Limosa haemastica*) and Short-eared Owl (*Asio flammeus*). Under the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act, any activities that result in a take (harassment or harm) of migratory birds or eagles are prohibited unless authorized by USFWS.

No eelgrass beds (*Zostera marina*) nor mussel seed conservation areas are located near the project. Softshell clam (*Mya arenaria*) habitat is identified to the south and sea scallop (*Placopectin magellanicus*) habitat offshore, to the north, of the project area (Figure 5). At the high tide line, where the project will be constructed, scavengers such as beach fleas, mites, spiders, bacteria and flies feed on plant and animal matter in the wrack line. Large numbers of barnacles, snails and crabs are often found in this environment as they are capable of surviving repeated changes in temperature and salinity that occur along the high tide line. Small mammals such as mice, coyotes and mink are expected to use the high tide line for scavenging and shelter.

4.3.2 Environmental Consequences

No significant long-term direct or indirect adverse impacts to the biological resources in the project area are expected from the construction of the proposed project. The project area is outside essential habitat and the intertidal area within the project footprint does not contain any significant habitats. There will be minor temporary impacts during construction including noise and activity that may affect the adjacent TWWH (a Maine significant wildlife habitat), but it will end once construction activity is complete. Additionally, temporary disturbance of the intertidal habitat will occur in the access area, but organisms from adjacent areas are expected to recolonize the area once construction is complete. Minor temporary disturbances to the lower intertidal area will occur during construction, but will be limited as work will not be completed while these areas are accessible to fish and other aquatic species. Temporary impact is expected to be 15,000 ft² for the revetment and 30,000 ft² for construction access, for a total of 45,000 ft² of temporary intertidal impact. The work area will only realize temporary impacts from construction activities since the area consists of rock, cobble, gravel and sand. The approximately 15,000 ft² area below MHHW where the revetment will be constructed currently consists of large rock from the failed revetment. Post-construction, this area will consist of riprap providing a similar habitat type. Therefore, no long-term permanent impact to the intertidal habitat area is expected.

4.4 Essential Fish Habitat

4.4.1 Affected Environment

The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that an Essential Fish Habitat (EFH) consultation be conducted for activities that may adversely affect important habitats for Federally managed marine and anadromous fish species. EFH includes “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” As a result of this consultation, the National Marine Fisheries Service (NMFS) may require specific actions to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from the project. Delineation of EFH consists of coastal littoral and continental shelf waters superimposed by 10 minute by 10 minute (10'x10') square coordinates that have been mapped by Regional Fishery Management Councils (RFMC). Appendix B contains an EFH assessment.

4.4.2 Environmental Consequences

Preliminary conservation recommendations were provided by NMFS in response to coordination efforts. Based on that correspondence, NMFS indicated they are concerned about conversion of intertidal cobble/gravel habitat into large, angular (engineered) rock, which they state has little habitat value (Appendix B). During the plan development process, USACE will work, to the maximum extent practicable, to avoid placement of engineered rock in the intertidal to limit the amount of habitat conversion. Additional coordination with NMFS will occur once project plans are prepared and final conservation recommendations are expected to be provided at that time.

4.5 Endangered and Threatened Species

4.5.1 Affected Environment

USFWS lists the threatened Northern Long-Eared Bat (NLEB) as potentially present in the project area, but does not identify the presence of any critical habitat in the project area (IPaC viewer, accessed 4/26/17). Information obtained from the state of Maine has indicated that there are no known maternity roost trees nor hibernacula in the project area. Therefore, USACE was able to file the Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form with USFWS. USACE uses this form to inform USFWS that they assume NLEB are present at the project area, but that they don't expect to harm any bats. USFWS has 30 days to respond to this form. USFWS did not respond to the filing of the Streamlined Consultation Form

within the 30 day response window (5/26/17), therefore, it may be presumed that USACE project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016 Programmatic Biological Opinion (Appendix C). Maine lists the NLEB as endangered.

NOAA/NMFS lists several endangered species: Right Whales (*Eubalaena glacialis*), Fin Whales (*Balaenoptera physalus*), Kemp's Ridley Turtle (*Lepidochelys kempii*), Leatherback Turtle (*Dermochelys coriacea*), Loggerhead Turtle (*Caretta caretta*) and Atlantic Sturgeon as potentially being in the project area (<https://www.greateratlantic.fisheries.noaa.gov/protected/section7/listing/index.html> accessed 4/20/17). The Bay of Fundy, of which the Passamaquoddy Bay is a part, is listed as critical habitat for the North Atlantic Right Whale.

Generally, Right Whales are found in coastal or shelf waters and Fin Whales are found in deep offshore waters (<https://www.greateratlantic.fisheries.noaa.gov/protected/section7/listing/index.html>, accessed 4/20/17). The Kemp's Ridley, Loggerhead and Leatherback Turtles are unlikely to be found in intertidal areas. These turtles generally feed in coastal or offshore waters. Atlantic Canada, adjacent to the project site, supports one of the largest seasonal foraging populations of Leatherback Turtles in the Atlantic. The project site is located near the MHHW line, therefore, it is not expected to affect marine turtles, sturgeon nor whales. The adjacent Passamaquoddy Bay is considered an Atlantic Sturgeon accessible waterway where presence of these species are presumed. Atlantic Sturgeon tend to live in shallow (10-50 meter depth) nearshore areas with gravel and sand substrates. The project area is not expected to affect these species due to its location near the MHHW line (<http://www.fisheries.noaa.gov/pr/species/fish/atlantic-sturgeon.html>, accessed 4/20/17). A no effect memorandum was placed in the project files.

Coordination with the State of Maine Department of Inland Fisheries and Wildlife determined that there are no locations of endangered, threatened or special concern species within the area that would be affected by the proposed project.

4.5.2 Environmental Consequences

There are no impacts to endangered or threatened species nor their habitat in the project area.



Figure 5 – Habitat

4.6 Historic and Archaeological Resources

The Passamaquoddy Tribe has occupied the area bordering on Passamaquoddy Bay as far back as 14,000 years ago. There are two federally recognized Passamaquoddy Tribes in Maine, the Pleasant Point and Indian Township Reservations. Each is a distinct sovereign unit with their own government and services. Located at the confluence of Passamaquoddy and Cobscook Bay, the Pleasant Point peninsula has always been a traditional seasonal fishing village to the Passamaquoddy (wabanaki.com).

Pleasant Point Reservation encompasses a peninsula on Passamaquoddy Bay between Eastport and Perry and is known as Sipayik. In the 1930's, a dam was built as part of the never-completed Passamaquoddy Bay Tidal Power Project during the Roosevelt Administration. The dam currently serves as a causeway connecting Route 190 from Perry over to Eastport (quoddyloop.com).

The project area borders the Tribe's wastewater treatment plant, elders housing area, and St. Anne's Roman Catholic Church. Further to the south of the project lies Split Rock near the causeway at Half Moon Cove. Split Rock is a spiritual site of note to the Tribe and used in many ceremonies and tribal gatherings. However, Split Rock is not in the project area.

Consultation with the Tribal Historic Preservation Officer (THPO) was completed and this project was determined to have no impact on cultural and historical concerns of the Passamaquoddy Tribe.

4.7 Socioeconomics

4.7.1 Affected Environment

Environmental justice is the fair treatment for people of all races, cultures, and incomes, regarding the development and implementation (or lack thereof) of environmental laws, regulations, and policies. EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*, directs Federal agencies to address environmental and human health conditions in minority and low-income communities. If investigations find that a minority or low-income groups experience a disproportionate adverse effect, avoidance or mitigation measures are necessary.

Executive Order 13045, *Protection of Children from Environmental Health and Safety Risks*, requires Federal agencies to the extent permitted by law and mission, to identify and assess environmental health and safety risks that might disproportionately affect children.

4.7.2 Environmental Consequences

Implementing the proposed action will not adversely affect the region nor local economic development, demographics, housing, quality of life, environmental justice, or protection of children. If the proposed project is not constructed, there will be negative effects to the tribal population due to the endangerment of tribal housing, the senior center, church and related infrastructure.

4.8 Air Quality & Noise

4.8.1 Air Quality

Ambient air quality is protected by Federal and state regulations. The U.S. EPA has developed National Ambient Air Quality Standards (NAAQS) for certain air pollutants and air quality standards for each state cannot be less stringent than the NAAQS. The NAAQS determined by the EPA set the concentration limits that determine the attainment status for each criteria pollutant. Washington County, Maine is in attainment for all public health criteria pollutants, therefore no additional action is necessary (https://www3.epa.gov/region1/topics/air/sips/ne_sip_summaries.html#me accessed 4/18/17)

4.8.2 Noise

During construction, noise may elevate above ambient noise levels due to the use of heavy machinery necessary for placement of the revetment. This will be short-term in duration, ceasing once construction is complete.

4.8.3 Environmental consequences

The project area is in attainment of air quality standards, any air quality impacts during construction will be short-term and minor. There will be no significant adverse impacts to air quality due to implementation of this project. Additionally, there will be no long-term significant adverse impacts to ambient noise levels.

4.9 Floodplains

As per Executive Order 13690 (Jan 30, 2015), the Federal Government should take action to improve the Nation's preparedness and resilience against flooding. In doing so, the government requires executive departments and agencies to avoid, to the extent possible, the long-term and short-term adverse impacts associated with occupancy and modification of floodplains. As described under the Alternatives section of this EA, the best option for protection of tribal housing is construction of a revetment, which will be located in the coastal flood plain.

5 CUMULATIVE IMPACTS

Cumulative impacts are those resulting from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions. Past actions include the building of a revetment in the same location of the proposed revetment. This initial revetment was destroyed. The rocks of this revetment are still located along the shore. To the north of the proposed project site, a 300 ft revetment was constructed to protect the Waste Water Treatment Plant and it is possible, that in the future, the proposed revetment will be extended to the south to protect additional Tribal resources. It is not expected that armoring this area will increase building or population along the shoreline of Pleasant Point Reservation as the town population is very small. The effects of these previous, existing and future actions are generally limited to infrequent disturbances of the benthic communities in the project areas. Water quality, air quality, hydrology, and other biological resources are generally not significantly affected by these actions with any disturbance being short-lived. Consequently, the direct effects of this project are not anticipated to add to impacts from other actions in the area. Therefore, no adverse cumulative impacts are projected as a result of this project.

6 COORDINATION

The following is a list of agencies and groups that were coordinated with during the course of the study:

Federal Agencies

- National Marine Fisheries Service
- U.S. Environmental Protection Agency Region 1
- U.S. Fish and Wildlife Service

State of Maine

- Maine Department of Inland Fisheries and Wildlife
- Maine Office of Coastal Zone Management

Local

- Passamaquoddy Tribe, Pleasant Point
- Tribal Historic Preservation Officer

7 REFERENCES

MEDEP, 2014 Integrated Water Quality Monitoring and Assessment Report Appendices: Acronyms, HUC Maps, Definitions and Integrated Lists of Surface Waters.

8 COMPLIANCE WITH FEDERAL ENVIRONMENTAL STATUTES AND EXECUTIVE ORDERS

Federal Statutes

1. Archaeological Resources Protection Act of 1979, as amended, 16 USC 470 et seq.

Compliance: Not applicable.

2. Preservation of Historic and Archeological Data Act of 1974, as amended, 16 U.S.C. 469 et seq.

Compliance: The Project was coordinated with the Tribal Historic Preservation Officer for the Passamaquoddy Tribe.

3. American Indian Religious Freedom Act of 1978, 42 U.S.C. 1996.

Compliance: The Project was coordinated with the Passamaquoddy Tribe.

4. Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

Compliance: Public notice of the availability of this report to the Environmental Protection Agency is required for compliance pursuant to Sections 176c and 309 of the Clean Air Act.

5. Clean Water Act of 1977 (Federal Water Pollution Control Act Amendments of 1972) 33 U.S.C. 1251 et seq.

Compliance: A 404(b)(1) evaluation is provided in the EA and a 401 water quality certification will be obtained from the State of Maine prior to project construction.

6. Coastal Zone Management Act of 1982, as amended, 16 U.S.C. 1451 et seq.

Compliance: CZM consistency will be obtained from the State of Maine prior to the start of construction.

7. Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq.

Compliance: Coordination through the U.S. Fish and Wildlife Service (USFWS) New England Field Office was required for Northern Long-Eared Bats. USACE filed a NLEB 4(d) Rule Streamlined Consultation Form with USFWS indicating that the project is not likely to adversely affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule. USFWS did not respond in 30 days, therefore, it may be presumed that USACE's project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016 Programmatic BO.

A "No Effect" determination was made that this project will have no impact on any endangered or threatened species under jurisdiction of the National Oceanic and Atmospheric Administration Fisheries

Service (NOAA Fisheries) pursuant to Section 7 of the Endangered Species Act. A “No Effect” memorandum was prepared and included in the project files. Maine Department of Inland Fisheries and Wildlife indicated through coordination that there are no endangered, threatened or special concern species with the project area that would be affected by the proposed project.

8. Estuarine Areas Act, 16 U.S.C. 1221 et seq.

Compliance: Not Applicable. This report is not being submitted to Congress.

9. Federal Water Project Recreation Act, as amended, 16 U.S.C. 4601-12 et seq.

Compliance: Not Applicable.

10. Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 et seq.

Compliance: Coordination with the Maine Department of Inland Fisheries and Wildlife indicated that no essential or inland fisheries habitats nor endangered, threatened or special concern species are located within the project area (Appendix A). Additional correspondence with this agency will occur once a 401 permit is sought, once project plans are available. Comments have been requested from USFWS and will be incorporated when/if received.

11. Land and Water Conservation Fund Act of 1965, as amended, 16 U.S.C. 4601-4 et seq.

Compliance: Not applicable

12. Marine Protection, Research, and Sanctuaries Act of 1971, as amended, 33 U.S.C. 1401 et seq.

Compliance: Not Applicable. The proposed project does not involve the transportation or disposal of dredged material in ocean waters pursuant to Sections 102 and 103 of the Act, respectively.

13. National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq.

Compliance: Coordination with the Tribal Historic Preservation Office signifies compliance.

14. Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3000-3013, 18 U.S.C. 1170

Compliance: Regulations implementing NAGPRA will be followed if discovery of human remains and/or funerary items occur during implementation of this project.

15. National Environmental Policy Act of 1969, as amended, 42 U.S.C 4321 et seq.

Compliance: Preparation of the Environmental Assessment signifies partial compliance with NEPA. Full compliance shall be noted at the time the Finding of No Significant Impact is signed by the District Engineer.

16. Rivers and Harbors Act of 1899, as amended, 33 U.S.C. 401 et seq.

Compliance: No requirements for projects or programs authorized by Congress. The proposed streambank restoration project is being conducted pursuant to the Congressionally-approved authority.

17. Watershed Protection and Flood Prevention Act as amended, 16 U.S.C 1001 et seq.

Compliance: Floodplain impacts have been considered in project planning. The project will not result in the loss of floodplain.

18. Wild and Scenic Rivers Act, as amended, 16 U.S.C 1271 et seq.

Compliance: Not applicable, project is not on a river.

19. Magnuson-Stevens Act, as amended, 16 U.S.C. 1801 et seq.

Compliance: Preliminary conservation recommendations were provided by NMFS in response to coordination efforts. Additional coordination with NMFS will occur once project plans are prepared and final conservation recommendations are expected to be provided at that time.

20. Coastal Barrier Resources Act, as amended, 16 U.S.C. 3501 et seq.

Compliance: Not applicable; there are no Coastal Barrier Resource Units in or near the proposed project area. (<https://www.fws.gov/cbra/Maps/Mapper.html>, accessed 4/28/17)

Executive Orders

1. Executive Order 11593, Protection and Enhancement of the Cultural Environment, 13 May 1971

Compliance: Coordination with the Tribal Historic Preservation Officer signifies compliance.

2. Executive Order 11988, Floodplain Management, 24 May 1977 amended by Executive Order 12148, 20 July 1979; subsequently amended by Executive Order 13690, January 30, 2015.

Compliance: Public notice of the availability of this report or public review fulfills the requirements of Executive Order 11988, Section 2(a) (2).

3. Executive Order 11990, Protection of Wetlands, 24 May 1977.

Compliance: Public notice of the availability if this report for public review fulfills the requirements of Executive Order 11990, Section 2 (b).

4. Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979.

Compliance: Not applicable to projects located in the United States geographical boundaries.

5. Executive Order 12898, Environmental Justice, 11 February 1994.

Compliance: The project will not have a significant negative impact on minority or low-income population, or any other population in the United States.

6. Executive 13007, Accommodation of Sacred Sites, 24 May 1996

Compliance: Coordination with the Passamaquoddy Tribe indicates that there are no known Sacred Sites in the project footprint.

7. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. 21 April, 1997.

Compliance: Not applicable. The project would not create a disproportionate environmental health or safety risk for children.

8. Executive Order 13061, and Amendments – Federal Support of Community Efforts Along American Heritage Rivers

Compliance: Not Applicable. The project is not along an American Heritage River.

9. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 6 November 2000.

Compliance: Consultation with the Passamaquoddy tribe signifies compliance. The project is partially funded by the tribe.

Executive Memorandum

1. Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing NEPA, 11 August 1980.

Compliance: There are no prime agricultural lands under or on the project.

2. White House Memorandum, Government-to-Government Relations with Indian Tribes, 29 April 1994.

Compliance: Consultation with the Passamaquoddy Tribe is ongoing, they are the project sponsor.

APPENDIX A – CORRESPONDENCE



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
284 STATE STREET
41 STATE HOUSE STATION
AUGUSTA ME 04333-0041

CHANDLER E. WOODCOCK
COMMISSIONER

May 1, 2017

Marie Esten
Environmental Resources Section
U.S. Army Corps of Engineers New England District
696 Virginia Rd
Concord, MA 01742

RE: Information Request - Passamaquoddy Tribe revetment project, Pleasant Point

Dear Marie:

Per your request received April 27, 2017, we have reviewed current Maine Department of Inland Fisheries and Wildlife (MDIFW) information for known locations of Endangered, Threatened, and Special Concern species; designated Essential and Significant Wildlife Habitats; and fisheries habitat concerns within the vicinity of the *Passamaquoddy Tribe revetment project* in Pleasant Point.

Our information indicates no locations of Endangered, Threatened, or Special Concern species within the project area that would be affected by your project. Additionally, our Department has not mapped any Essential or inland fisheries habitats that would be directly affected by your project.

Significant Wildlife Habitat

Tidal Waterfowl and Wading Bird Habitats

A small portion of the project appears to intersect with a Tidal Waterfowl and Wading Bird Habitat (TWWH), a Significant Wildlife Habitat under Maine's Natural Resources Protection Act. TWWHs provide important feeding and/or breeding habitat for diverse waterfowl and wading bird species. Birds utilize intertidal mudflats to forage for aquatic invertebrates, a primary food source, and maintaining natural tidal flow is essential to maintaining healthy intertidal areas and food sources to support waterfowl and wading bird species. As your project gets finalized, we recommend you contact MDIFW Region C wildlife staff (207-434-5927) to discuss methods to avoid or limit impacts to these wildlife resources.

This consultation review has been conducted specifically for known MDIFW jurisdictional features and should not be interpreted as a comprehensive review for the presence of other regulated features that may occur in this area. Prior to the start of any future site disturbance we recommend additional consultation with the municipality, and other state resource agencies including the Maine Natural Areas Program and Maine Department of Environmental Protection in order to avoid unintended protected resource disturbance.

Letter to Marie Esten
Comments RE: Pleasant Point, Passamaquoddy Tribe revetment
May 1, 2017

Please feel free to contact my office if you have any questions regarding this information, or if I can be of any further assistance.

Best regards,

A handwritten signature in blue ink, appearing to read "John Perry". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Perry".

John Perry
Environmental Review Coordinator

Tribal Historic Preservation Office
Passamaquoddy Tribe
PO Box 159 Princeton, Me. 04668
207-214-4051

May 4, 2017

Dept of the Army
USACE
696 Virginia Rd
Concord, MA

Re: Pleasant Point Passamaquoddy Community – Shore Erosion Project

Dear Marcos;

The Passamaquoddy THPO has reviewed the following application regarding the historic properties and significant religious and cultural properties in accordance with NHPA, NEPA, AIRFA, NAGPRA, ARPA, Executive Order 13007 Indian Sacred Sites, Executive Order 13175 Consultation and Coordination with Indian Tribal Governments, and Executive Order 12898 Environmental Justice.

The Project listed above will not have any impact on cultural and historical concerns of the Passamaquoddy Tribe.

Sincerely;

Donald Soctomah
Soctomah@gmail.com
THPO
Passamaquoddy Tribe

APPENDIX B – ESSENTIAL FISH HABITAT ASSESSMENT

From: Esten, Marie E CIV USARMY CENAE (US)
To: ["Mike R Johnson - NOAA Federal"](#)
Subject: EFH assessment for revetment in Pleasant Point Reservation, Maine
Date: Thursday, June 08, 2017 10:00:00 AM

Mike,

Thank you for your preliminary conservation recommendations. Once we obtain design plans I will reach out to you to continue our coordination on this project.

Marie

Marie Esten
Environmental Resources Section
U.S. Army Corps of Engineers New England District
696 Virginia Road
Concord, MA 01742
978-318-8965

-----Original Message-----

From: Mike R Johnson - NOAA Federal [<mailto:mike.r.johnson@noaa.gov>]
Sent: Monday, June 05, 2017 1:39 PM
To: Esten, Marie E CIV USARMY CENAE (US) <Marie.E.Esten@usace.army.mil>
Subject: Re: [Non-DoD Source] Re: EFH assessment for revetment in Pleasant Point Reservation, Maine

Marie,

As we discussed on the phone today, based on what I know from your EFH assessment and our email exchange there will be a conversion of intertidal cobble/gravel habitat to large, angular (engineered) rock which has very little habitat value to our trust resources. Because cobble/gravel habitat is identified as essential fish habitat for a number of species, we would consider this an adverse effect to EFH. Furthermore, if you place the engineered rock on top of existing cobble/gravel habitat it will raise the elevation and likely convert intertidal habitat to supratidal habitat, which obviously eliminates the habitat for our trust resources, even if you were to place cobble/gravel material over the engineered rock. In addition, since you mentioned placing cobble/gravel at the toe of slope, only a small portion of the intertidal zone habitat conversion area would be "restored" with new cobble/gravel. It's also unclear if the area of the toe of slope is existing cobble/gravel habitat, so this would not effectively compensate for the conversion of cobble/gravel habitat further landward.

Getting a quantification of the area being affected, both from a conversion from cobble/gravel to engineered rock and from a conversion of intertidal to supratidal habitat, is important and necessary for us to provide detailed and focused EFH conservation recommendations. Once the design of this project is completed, we may provide final EFH conservation recommendations but at this time we can only provide the following preliminary conservation recommendations.

EFH Conservation Recommendations:

1. To the extent practicable, placement of large engineered rock should be limited to areas above the MHHW line to avoid conversion of cobble/gravel intertidal habitat.
2. The placement of large engineered rock in the intertidal zone should be minimized to the maximum extent practicable.
3. For areas that existing cobble/gravel habitat will be replaced with large, engineered rock, compensatory mitigation should be provided. In addition, for intertidal areas that will be converted to supratidal zone as a result of the placement of large, engineered rock, compensatory mitigation should be provided. This includes areas that new cobble/gravel is placed on top of the large, engineered rock if the areas is converted to supratidal.
4. Depending upon the quantity of habitat conversion, we may recommend a site specific compensatory mitigation be undertaken such as a restoration of intertidal, cobble/gravel habitat in the proximity of this project. We will be ready to work with the Corps on identifying an appropriate compensatory mitigation option once we have additional

project design and impact assessment.

Thanks,

Mike

Appendix C: Essential Fish Habitat

EFH ASSESSMENT WORKSHEET FOR FEDERAL AGENCIES (modified 08/04)

PROJECT NAME: Pleasant Point Reservation Revetment

DATE: April 18, 2017 **PROJECT NO.:** NA

LOCATION: Pleasant Point Reservation, Maine

PREPARER: U. S. Army Corps of Engineers, New England District

Step 1. Use the Habitat Conservation Division EFH webpage, Guide to Essential Fish Habitat Designations in the Northeastern United States to generate the list of designated EFH for federally-managed species for the geographic area of interest (<http://www.nero.noaa.gov/hcd/index2a.htm>). Use the species list as part of the initial screening process to determine if EFH for those species occurs in the vicinity of the proposed action. The list can be included as an attachment to the worksheet. Make a preliminary determination on the need to conduct an EFH Consultation.

1. INITIAL CONSIDERATIONS		
EFH Designations	Yes	No
Is the action located in or adjacent to EFH designated for eggs? List the species: winter flounder, yellowtail flounder, windowpane flounder, American plaice, ocean pout, Atlantic halibut, Atlantic sea scallops	x	
Is the action located in or adjacent to EFH designated for larvae? List the species: Atlantic cod, pollock, winter flounder, yellowtail flounder, windowpane flounder, American plaice, ocean pout, Atlantic halibut, Atlantic sea scallop, Atlantic sea herring	x	
Is the action located in or adjacent to EFH designated for juveniles? List the species: Atlantic salmon, Atlantic cod, pollock, whiting, red hake, white hake, winter flounder, windowpane flounder, American plaice, ocean pout, Atlantic halibut, Atlantic sea scallop, Atlantic sea herring, Atlantic mackerel	x	
Is the action located in or adjacent to EFH designated for adults or spawning adults? List the species: Atlantic salmon, Atlantic cod, pollock, whiting, red hake, white hake, winter flounder (spawning), windowpane flounder (spawning), American plaice (spawning), ocean pout (spawning), Atlantic halibut (spawning), Atlantic sea scallop (spawning), Atlantic sea herring, Atlantic mackerel	x	
If you answered no to all questions above, then EFH consultation is not required -go to Section 5. If you answered yes to any of the above questions proceed to Section 2 and complete remainder of the worksheet.		

EFH Assessment for Pleasant Point Reservation, Washington County, ME

Step 2. In order to assess impacts, it is critical to know the habitat characteristics of the site before the activity is undertaken. Use existing information, to the extent possible, in answering these questions. Identify the sources of the information provided and provide as much description as available. These should not be yes or no answers. Please note that there may be circumstances in which new information must be collected to appropriately characterize the site and assess impacts. Project plans that show the location and extent of sensitive habitats, as well as water depths, the HTL, MHW and MLW should be provided.

2. SITE CHARACTERISTICS	
Site Characteristics	Description
Is the site intertidal, sub-tidal, or water column?	Intertidal. A revetment is proposed at the MHHW line (Figures 5 and 6).
What are the sediment characteristics?	Gravel, cobble and rock (Figures 2 and 3).
Is there submerged aquatic vegetation (SAV) at or adjacent to project site? If so describe the SAV species and spatial extent.	No (Based on ME GIS eelgrass data layer)
Are there wetlands present on or adjacent to the site? If so, describe the spatial extent and vegetation types.	No. Site is adjacent to Pleasant Point Reservation community structures, no wetlands are present.
Is there shellfish present at or adjacent to the project site? If so, please describe the spatial extent and species present.	Yes, About 450 ft, south there is soft shelled clam (<i>Mya arenaria</i>) habitat (Figure 4). Sea scallop (<i>Placopectin magellanicus</i>) habitat is located to the north east approximately 1,200 ft from the project site.
Are there mudflats present at or adjacent to the project site? If so, please describe the spatial extent.	No, adjacent intertidal is gravel/cobble (Figure 2 and 3). Mud flat habitat may be located to the North of the project in the Tidal Waterfowl/Wading Bird Habitat (Figure 4).
Is there rocky or cobble bottom habitat present at or adjacent to the project site? If so, please describe the spatial extent.	Yes, the intertidal area along the proposed revetment is all gravel/cobble/rock substrate (Figures 2 and 3)
Is there Habitat Area of Particular Concern (HAPC) designated at or near the project site? If so, for which species, what habitat type, size and characteristics?	No

EFH Assessment for Pleasant Point Reservation, Washington County, ME

<p>What is typical salinity, depth and water temperature regime/range?</p>	<p>Salinity for the project area is expected to be similar to open ocean due to its location in the outer bay.</p> <p>Temperature – the monthly average ranges from 6.5 °C in February and March to 14.2 °C in August.</p> <p>https://www.seatemperature.org/north-america/canada/saint-andrews.htm, accessed April 24, 2017</p> <p>Depth – the project is in the intertidal area, depth is sea level (0 ft.)</p>
<p>What is the normal frequency of site disturbance, both natural and man-made?</p>	<p>The proposed project is located at the high tide line on an actively eroding face in an area with approximately 20 foot tides. The site is disturbed at least two times a day due to the tidal cycles. During large storms, disturbance is much greater in magnitude than regular tidal cycles. There is normally very little human disturbance at the site.</p>
<p>What is the area of proposed impact (work footprint & far afield)?</p>	<p>The total length of the proposed revetment is 1,500 ft having a width of approximately 36 ft and an associated temporary work area of an additional 20 ft. along the base of the revetment resulting in a total impact area (upland and intertidal) of 84,000 ft². The intertidal portion of this temporary impact is 15,000 ft² for the revetment and 30,000 ft² for construction access, for a total of 45,000 ft² of temporary intertidal impact. The associated work area will realize only temporary impacts from construction activities since this area consists of mainly rock, cobble and gravel with no permanent alteration. The approximate 15,000 ft² area below MHHW where the revetment will be constructed currently consists of large rock from the failed revetment. Post-construction, this area will consist of rip-rap providing a similar habitat type. Therefore, no long-term permanent impact to the intertidal habitat are expected.</p>

Step 3. This section is used to describe the anticipated impacts from the proposed action on the physical/chemical/biological environment at the project site and areas adjacent to the site that may be affected.

3. DESCRIPTION OF IMPACTS			
Impacts	Y	N	Description
<p>Nature and duration of activity(s). Clearly describe the activities proposed and the duration of any disturbances.</p>			<p>The purpose of the proposed emergency shoreline protection project is to prevent ongoing shoreline erosion in front of tribal housing, a church and a senior center at the Pleasant Point Reservation in Washington County, Maine by constructing a 1,500 linear ft rip-rap revetment (Figure 1). The project will be located in the same footprint as a failed revetment previously constructed by USACE in the 1980's. The prior revetment failed due to improper construction; much of the stone used was not the proper size or weight and the required stone bedding beneath was non-existent. The proposed revetment project will tie into the southern section</p>

EFH Assessment for Pleasant Point Reservation, Washington County, ME

			of a newly constructed 300' revetment project along the shoreline in front of the tribal owned Waste Water Treatment Plant (WWTP). Construction is expected to take 4-6 months because we will be working only when the intertidal is dry. Therefore construction will be dependent on the tidal cycle.
Will benthic community be disturbed? If no, why not? If yes, describe in detail how the benthos will be impacted.	x		The intertidal habitat in the project area will be disturbed during the construction of the revetment due to heavy equipment access as well as the construction process (Figures 5 and 6). As the project is located at the extreme high tide range in an area with large tides (20 + feet), it is not expected that large numbers of organisms will be present in this location due to the extreme nature of the environment. Additionally, after construction it is expected that the revetment will provide habitat that is similar to the existing large rock habitat and will be much more stable.
Will SAV be impacted? If no, why not? If yes, describe in detail how he SAV will be impacted. Consider both direct and indirect impacts. Provide details of any SAV survey conducted at the site.		x	No SAV is located in or adjacent to the project area.
Will the salt marsh habitat be impacted? If no, why not? If yes, describe in detail how wetlands will be impacted. What is the aerial extent of the impacts? Are the effects temporary or permanent?		x	No salt marsh habitat is located in or adjacent to the project area.
Will the mudflat habitat be impacted? If no, why not? If yes, describe in detail how mudflats will be impacted. What is the aerial extent of the impacts? Are the effects temporary or permanent?		x	No mudflat is located in or adjacent to the project area
Will the shellfish habitat be impacted? If so, provide in detail how the shellfish habitat will be impacted. What is the aerial extent of the impact? Provide details of any shellfish survey conducted at the site.		x	The project is at least 450 ft. away from the nearest shellfish habitat (See figure 4).

EFH Assessment for Pleasant Point Reservation, Washington County, ME

<p>Will hard bottom (rocky, cobble, gravel) habitat be impacted at the site? If so, provide in detail how the hard bottom will be impacted. What is the aerial extent of the impact?</p>	<p>X</p>	<p>The intertidal area along the high tide line will be utilized for construction access and a revetment will be placed where large rocks, gravel and an eroding face are currently present. Temporary impacts to the intertidal are expected to be 45,000 ft² area (1,500 ft length by 30 ft wide) along the high tide line. Habitat type will essentially remain unchanged but be converted from a scattered rocky high energy environment to a more stable rip-rap environment. Construction is expected to take 4-6 months.</p>
<p>Will sediments be altered and/or sedimentation rates change? If no, why not? If yes, describe how.</p>	<p>x</p>	<p>Sediments will not be altered and sedimentation rates should remain stable. In the high energy environment of the project site, the revetment will not substantially change the flow patterns or allow for greater settling.</p>
<p>Will turbidity increase? If no, why not? If yes, describe the causes, the extent of the effects, and the duration.</p>	<p>x</p>	<p>No, turbidity is not expected to increase as the work will not be completed in the water, minimizing any potential turbidity. The revetment, once completed will stabilize the embankment, therefore reducing localized turbidity.</p>
<p>Will water depth change? What are the current and proposed depths?</p>	<p>x</p>	<p>The water depth will not change, no dredging will occur.</p>
<p>Will contaminants be released into sediments or water column? If yes, describe the nature of the contaminants and the extent of the effects.</p>	<p>x</p>	<p>The project will construct a revetment, with no release of contaminants to sediments or water column. The material is coarse grained and rock cobble removed from any known sources of pollution. No disturbance of the sediment other than by construction access and the placement of stone on existing substrate will occur.</p>
<p>Will tidal flow, currents or wave patterns be altered? If no, why not? If yes, describe in detail how.</p>	<p>x</p>	<p>Any impact from the revetment is expected to be insignificant. The waves only impact this area during storms or during the limited period of high tide. Its structure is similar to the existing cobble/rocky shoreline.</p>
<p>Will ambient salinity or temperature regime change? If no, why not? If yes, describe in detail how and the effects of the change.</p>	<p>x</p>	<p>The revetment will not affect temperature or salinity, its structure is similar to the existing cobble/rocky shoreline.</p>
<p>Will water quality be altered? If no, why not? If yes, describe in detail how. If the effects are temporary, describe the duration of the impact.</p>	<p>x</p>	<p>Placement of the revetment will not change currents or add anything additional to the water, therefore water quality will not degrade. It is possible that local water quality will improve as erosion is stopped in this location.</p>

EFH Assessment for Pleasant Point Reservation, Washington County, ME

Will ambient noise levels change? If no, why not? If yes, describe in detail how. If the effects are temporary, describe the duration and degree of impact.		x	Ambient noise levels will increase during the construction activities due to the use of heavy machinery. This impact is expected to be approximately 4-6 months, only during daylight hours when the intertidal is dry. Once the construction is complete, noise levels will return to normal.
Does the action have the potential to impact prey species of federally managed fish with EFH designations?		x	Prey species will not be in the area during construction as it will only occur during periods when the intertidal is dry.

Step 4. This section is used to evaluate the consequences of the proposed action on the functions and values of EFH as well as the vulnerability of the EFH species and their life stages. Identify which species (from the list generated in Step 1) will be adversely impacted from the action. Assessment of EFH impacts should be based upon the site characteristics identified in Step 2 and the nature of the impacts described within Step 3. The Guide to EFH Descriptions webpage (<http://www.nero.noaa.gov/hcd/list.htm>) should be used during this assessment to determine the ecological parameters/preferences associated with each species listed and the potential impact to those parameters.

4. EFH ASSESSMENT			
Functions and Values	Y	N	Describe habitat type, species and life stages to be adversely impacted
Will functions and values of EFH be impacted for:			
<u>Spawning</u> If yes, describe in detail how, and for which species. Describe how adverse effects will be avoided and minimized.		x	Spawning fish do not utilize the upper intertidal areas impacted by this project as spawning habitat since it is only flooded during the upper limits of the tidal cycle.
<u>Nursery</u> If yes, describe in detail how, and for which species. Describe how adverse effects will be avoided and minimized.		x	Juvenile fish may utilize the intertidal areas when they are flooded but construction will only take place when the intertidal in the vicinity of the project is dry.
<u>Forage</u> If yes, describe in detail how, and for which species. Describe how adverse effects will be avoided and minimized.		x	Foraging will only occur when water covers the intertidal, so the area will still be available to fish for foraging.

EFH Assessment for Pleasant Point Reservation, Washington County, ME

<p><u>Shelter</u></p> <p>If yes, describe in detail how, and for which species. Describe how adverse effects will be avoided and minimized.</p>		x	<p>Shelter may increase as the riprap will provide some habitat during the highest tides for shelter. Otherwise, as construction will only occur when the intertidal is dry, it will not affect shelter.</p>
<p>Will impacts be temporary or permanent? Describe the duration of the impacts.</p>			<p>All impacts will be minor and temporary. Construction will only occur when the intertidal is dry in the project area with limited impacts to water quality. Construction is expected to take 4-6 months due to the restriction of working only when the site is dry. The existing rock gravel habitat will be replaced with stone rip-rap along the upper 10 ft of the intertidal area having minimal overall impact to the area.</p>
<p>Will compensatory mitigation be used? If no, why not? Describe plans for mitigation and how this will offset impacts to EFH. Include a conceptual compensatory mitigation plan, if applicable.</p>		x	<p>No mitigation will be provided since all impacts will be minor and temporary.</p>

Step 5. This section provides the Federal agency’s determination on the degree of impact to EFH from the proposed action. The EFH determination also dictates the type of EFH consultation that will be required with NOAA Fisheries.

5. DETERMINATION OF IMPACT		
		Federal Agency’s EFH Determination
<p>Overall degree of adverse effects on EFH (not including compensatory mitigation) will be:</p> <p>(check the appropriate statement)</p>		<p>There is no adverse effect on EFH or no EFH is designated at the project site.</p> <p>EFH Consultation is not required</p>
	x	<p>The adverse effect on EFH is not substantial. This means that the adverse effects are either no more than minimal, temporary, or that they can be alleviated with minor project modifications or conservation recommendations.</p> <p>This is a request for an abbreviated EFH consultation.</p>
		<p>The adverse effect on EFH is substantial.</p> <p>This is a request for an expanded EFH consultation.</p>

EFH Assessment for Pleasant Point Reservation, Washington County, ME

Step 6. Consultation with NOAA Fisheries may also be required if the proposed action results in adverse impacts to other NOAA-trust resources, such as anadromous fish, shellfish, crustaceans, or their habitats as part of the Fish and Wildlife Coordination Act. Some examples of other NOAA-trust resources are listed below. Inquiries regarding potential impacts to marine mammals or threatened/endangered species should be directed to NOAA Fisheries' Protected Resources Division.

6. OTHER NOAA-TRUST RESOURCES IMPACT ASSESSMENT	
Species known to occur at site (list others that may apply)	Describe habitat impact type (i.e., physical, chemical, or biological disruption of spawning and/or egg development habitat, juvenile nursery and/or adult feeding or migration habitat). Please note, impacts to federally listed species of fish, sea turtles, and marine mammals must be coordinated with the GARFO Protected Resources Division.
alewife	No areas associated with this project have a substantial freshwater input. Species with a freshwater habitat form are only expected to utilize the project area on an intermittent basis.
American eel	No areas associated with this project have a substantial freshwater input. Species with a freshwater habitat form are only expected to utilize the project area on an intermittent basis.
American shad	No areas associated with this project have a substantial freshwater input. Species with a freshwater habitat form are only expected to utilize the project area on an intermittent basis.
Atlantic menhaden	As Menhaden are warm water fish, they are not expected to be in the project area during dredging operations.
Blue crab	Generally not found in Maine due to water temperature restrictions.
Blue mussel	No Blue Mussel habitat is found in the project area (MEGIS, accessed 4/ 2017)
blueback herring	No areas associated with this project have a substantial freshwater input. Species with a freshwater habitat form are only expected to utilize dredge and placement areas on an intermittent basis.
Eastern oyster	No Blue Mussel habitat is found in the project area (MEGIS, accessed 4/ 2017)
Horseshoe crab	Horseshoe crabs may intermittently use the project areas, although they prefer saltmarsh, mud flat and sand flats unaffected by wave energy. The project area does not fit any of these criteria.
quahog	No quahog habitat is found in the project area (MEGIS, accessed 4/ 2017)

EFH Assessment for Pleasant Point Reservation, Washington County, ME

Soft-shell clams	Softshelled clam (<i>Mya arenaria</i>) habitat is located approximately 450 ft to the south of the project. The project should have no impact on these mapped shellfish beds (MEGIS, accessed 4/2017)
Striped bass	Striped bass may intermittently use the mid to lower intertidal habitat within the project area during high tide. No impacts are expected within the project area.
rainbow smelt	No areas associated with this project have a substantial freshwater input. Species with a freshwater habitat form are only expected to utilize the project area on an intermittent basis.
Atlantic sturgeon	No areas associated with this project have a substantial freshwater input. Species with a freshwater habitat form are only expected to utilize the project area on an intermittent basis.
American lobster	Lobster impact should be minimal as the project site is located at the high tide line and construction will only occur when the intertidal is dry.
Other species:	n/a

Passamaquody Bay, Maine

Summary of Essential Fish Habitat (EFH) Designation

S = The EFH designation for this species includes the seawater salinity zone of this bay or estuary (salinity >25%)

M = Mixing water/brackish salinity zone (0.5<salinity<25%)

F = Freshwater zone (salinity <0.5%)

Species	Eggs	Larvae	Juveniles	Adults	Spawning Adults
Atlantic salmon (<i>Salmo salar</i>)			F,M,S	F,M,S	
Atlantic cod (<i>Gadus morhua</i>)		S	S	S	
pollock (<i>Pollachius virens</i>)		S	M,S	S	
whiting (<i>Merluccius bilinearis</i>)			M,S	M,S	
red hake (<i>Urophycis chuss</i>)			M,S	M,S	
white hake (<i>Urophycis tenuis</i>)			M,S	M,S	
winter flounder (<i>Pleuronectes americanus</i>)	M,S	M,S	M,S	M,S	M,S
yellowtail flounder (<i>Pleuronectes ferruginea</i>)	S	S			
windowpane flounder (<i>Scophthalmus aquosus</i>)	M,S	M,S	M,S	M,S	M,S
American plaice (<i>Hippoglossoides platessoides</i>)	S	S	M,S	S	S
ocean pout (<i>Macrozoarces americanus</i>)	S	S	S	S	S
Atlantic halibut (<i>Hippoglossus hippoglossus</i>)	S	S	S	S	S
Atlantic sea scallop (<i>Placopecten magellanicus</i>)	S	S	S	S	S
Atlantic sea herring (<i>Clupea harengus</i>)		M,S	M,S	M,S	
Atlantic mackerel (<i>Scomber scombrus</i>)			M,S	M,S	

EFH Assessment for Pleasant Point Reservation, Washington County, ME



Figure 1: Overview of project area.



Figure 2 – Project area looking south



Figure 3 – Project area



Figure 4 – Habitat adjacent to proposed project site.

NEW ENGLAND DISTRICT
U.S. ARMY CORPS OF ENGINEERS

SUBJECT PASSAMAQUODDY PROPOSED RETVEMENT

COMPUTATION _____

COMPUTED BY _____ CHECKED BY _____ DATE 19 APR 17

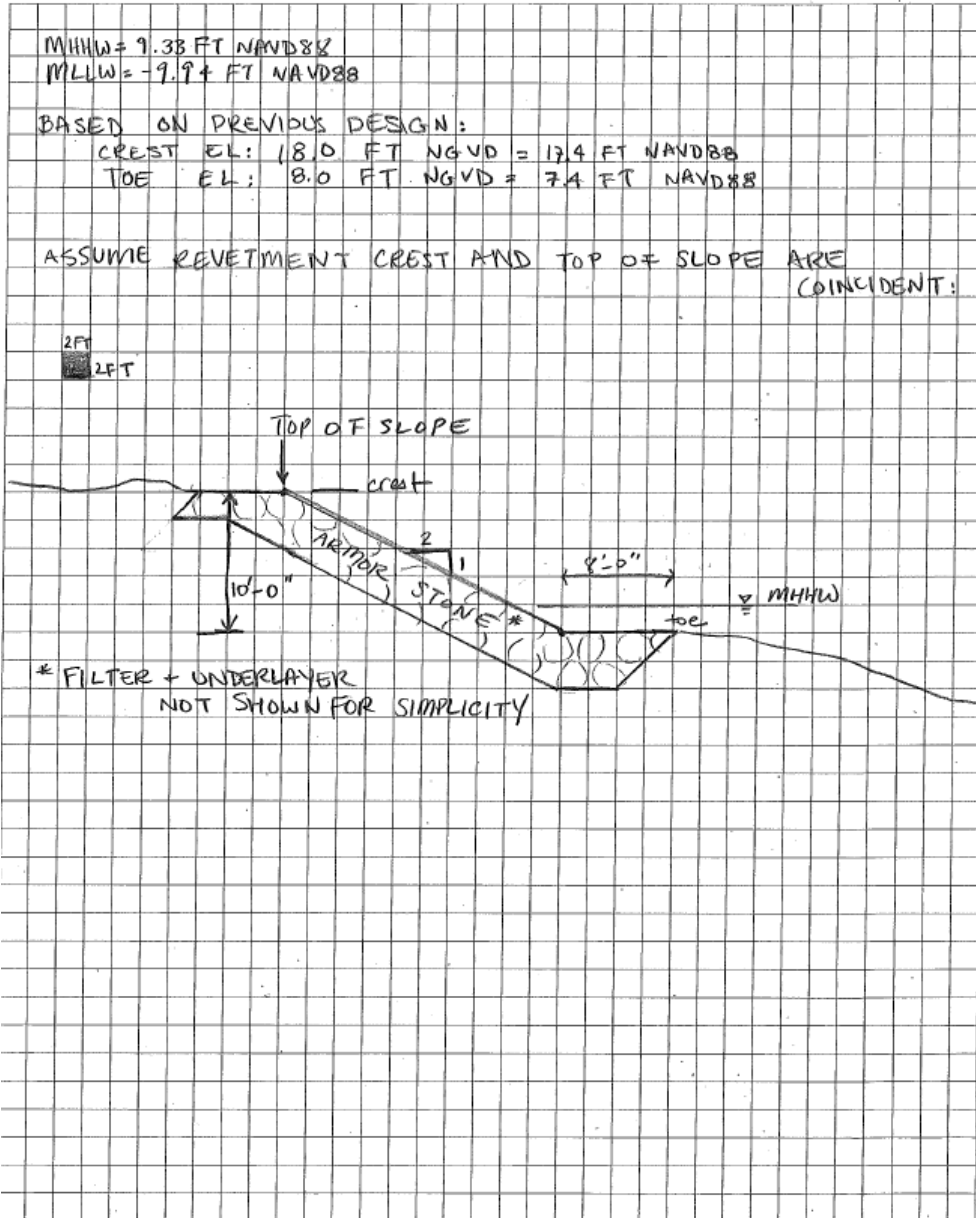


Figure 5 – Proposed revetment

EFH Assessment for Pleasant Point Reservation, Washington County, ME

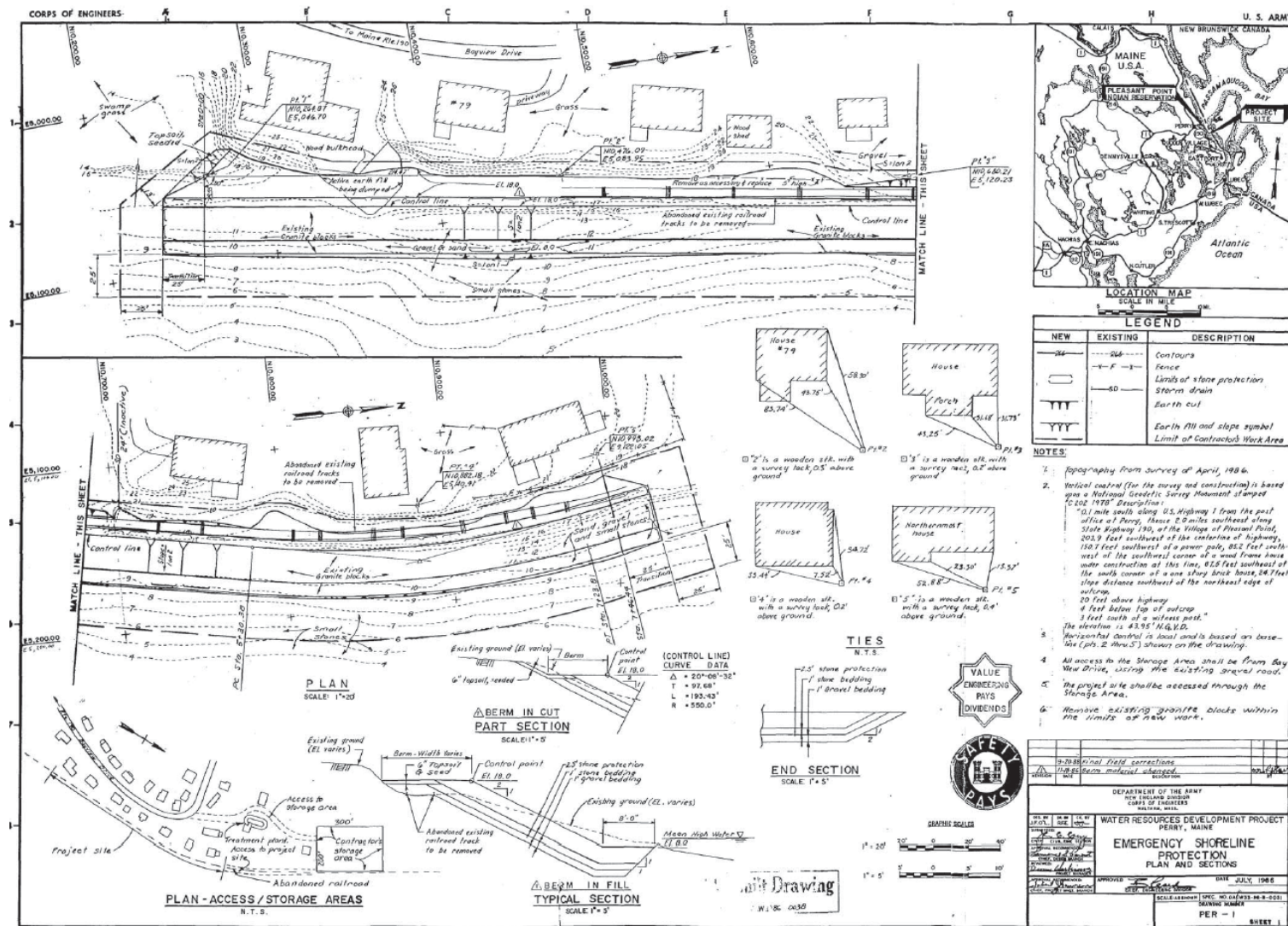


Figure 6 – Proposed project

**APPENDIX C – NORTHERN LONG-EARNED BAT 4(d) RULE
STREAMLINED CONSULTION FORM**

* * * Communication Result Report (Apr. 25. 2017 8:02AM) * * *

1)
2)

Date/Time: Apr. 25. 2017 8:01AM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
0542	Memory TX	916032230104	P. 3	OK	

Reason for error

- E. 1) Hang up or line fail
- E. 3) No answer
- E. 5) Exceeded max. E-mail size

- E. 2) Busy
- E. 4) No facsimile connection
- E. 6) Destination does not support IP-Fax



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696 Virginia Rd.
Concord, Massachusetts 01742

Number of Pages (including header) 3
Fax Number: 603-223-0104

Subject: WLEB 1(d) Rule Streamlined Consult Team
for Pleasant Point Reservation

To: Tom Chapman

From: Marie Esteu

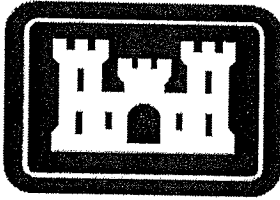
Phone #: _____

Phone #: 978-318-8965

Fax #: 603-223-0104

Fax #: _____

Remarks:



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Concord, Massachusetts 01742

Number of Pages (including header) 3
Fax Number: 603-223-0104

Subject: NLEB 4(d) Rule Streamlined Consult Form
for Pleasant Point Reservation

To: Tom Chapman

From: Mare Esteru

Phone #: _____

Phone #: 978-318-8965

Fax #: 603-223-0104

Fax #: _____

Remarks:

Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if reinitiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

Information to Determine 4(d) Rule Compliance:

	YES	NO
1. Does the project occur wholly outside of the WNS Zone ¹ ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency ² to determine if your project is near known hibernacula or maternity roost trees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

Agency and Applicant³ (Name, Email, Phone No.): USACE New England District, Contact: Marie Esten, USACE-NED, Env. Resources Section, marie.e.esten@usace.army.mil, 978-318-8965

Project Name: Pleasant Point Reservation Emergency Shoreline Protection

Project Location (include coordinates if known): Pleasant Point Reservation, Maine (44.957816 N 67.040138 W)

Basic Project Description (provide narrative below or attach additional information): Construction of a 1,500 ft revetment at Mean Higher High Water in the same footprint as a prior revetment that was improperly constructed and subsequently destroyed. Revetment will protect tribal housing and other facilities on the Passamaquoddy Reservation at Pleasant Point.

¹ <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

² See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

³ If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.

General Project Information	YES	NO
Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion ⁴ ? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of forest conversion		
If known, estimated acres ⁵ of forest conversion from April 1 to October 31		
If known, estimated acres of forest conversion from June 1 to July 31 ⁶		
Does the project include timber harvest? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of timber harvest		
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated wind capacity (MW)		

Agency Determination:

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.

Signature: Maria Ester

Date Submitted: 4/25/17

⁴ Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

⁵ If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

⁶ If the activity includes tree clearing in June and July, also include those acreage in April to October.

APPENDIX D – 404(b)(1) Evaluation

NEW ENGLAND DISTRICT U.S. ARMY CORPS OF ENGINEERS, CONCORD, MA SECTION 404(b)(1) EVALUATION

PROJECT: Pleasant Point Reservation, ME, Emergency Shoreline Protection Project

PROJECT MANAGER: Brian Balukonis

PHONE (978) 318-8643

FORM COMPLETED BY: Marie Esten

PHONE (978) 318-8965

PROJECT DESCRIPTION:

The proposed shoreline protection project will prevent ongoing erosion in front of tribal housing and other tribal facilities on the Pleasant Point Reservation. The Pleasant Point Reservation is home to members of the Passamaquoddy Tribe. The shoreline area to be protected is approximately 1500± linear feet in length. The preliminary design of the stone rip rap revetment consists of a geotextile overlain by an 18 inch layer of core stone, an 18 inch layer of under stone and a 42 inch thick layer of Armor Stone of rip-rap on a 1:1.5 vertical to horizontal slope. The proposed revetment project will tie into the southern section of a newly constructed 300 ft revetment project along the shoreline in front of the tribal owned WWTP.

Project authority is contained under the special continuing authority in Section 14 of the 1946 Flood Control Act (as amended), 33 U.S.C. § 701r. Section 14 allows the U.S. Army Corps of Engineers (USACE) to participate in the planning and construction of economically justified erosion protection projects in situations where public facilities are threatened in cooperation with the local sponsor. Due to the emergency nature of the erosion, there is a streamlined implementation process allowing the project study and design to be completed concurrently in an abbreviated time frame. The authority requires a complete comprehensive solution solving the immediate erosion problem in a manner that does not obligate or imply future federal participation. Once projects are completed they are turned over to the local non-federal sponsor. To meet time and cost targets, the Section 14 guidelines emphasize a significant reliance on professional judgment with a sufficient level of detailed analysis to determine the recommended plan. Each project is assessed in terms of its effectiveness in preventing future erosion damages to the public infrastructure, long and short-term ecological affects, public acceptability and cost effectiveness.

NEW ENGLAND DISTRICT

U.S. ARMY CORPS OF ENGINEERS

Evaluation of Clean Water Act Section 404(b)(1) Guidelines

PROJECT: Pleasant Point Reservation, Emergency Shoreline Protection Project, ME

1. Review of Compliance (Section 230.10(a)-(d)).

	YES	NO
a. The discharge represents the least environmentally damaging practicable alternative and if in a special aquatic site, the activity associated with the discharge must have direct access or proximity to, or be located in the aquatic ecosystem to fulfill its basic purpose.	X	
b. The activity does not appear to: 1) violate applicable state water quality standards or effluent standards prohibited under Section 307 of the CWA; 2) jeopardize the existence of Federally listed threatened and endangered species or their habitat; and 3) violate requirements of any Federally designated marine sanctuary.	X	
c. The activity will not cause or contribute to significant degradation of waters of the U.S. including adverse effects on human health, life stages of organisms dependent on the aquatic ecosystem, ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values.	X	
d. Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem.	X	

2. Technical Evaluation Factors (Subparts C-F).

	N/A	Not Significant	Significant
a. Potential Impacts on Physical and Chemical Characteristics of the Aquatic Ecosystem (Subpart C)			
1) Substrate		X	
2) Suspended particulates/turbidity		X	
3) Water column impacts		X	
4) Current patterns and water circulation	X		
5) Normal water fluctuations	X		
6) Salinity gradients	X		
b. Potential Impacts on Biological Characteristics of the Aquatic Ecosystem (Subpart D)			
1) Threatened and endangered species		X	

	N/A	Not Significant	Significant
2) Fish, crustaceans, mollusks, and other organisms in the aquatic food web		X	
3) Other wildlife (mammals, birds, reptiles, and amphibians)		X	
c. Potential Impacts on Special Aquatic Sites (Subpart E).			
1) Sanctuaries and refuges	X		
2) Wetlands	X		
3) Mud flats	X		
4) Vegetated shallows	X		
5) Coral reefs	X		
6) Riffle and pool complexes	X		
d. Potential Effects on Human Use Characteristics (Subpart F).			
1) Municipal and private water supplies	X		
2) Recreational and commercial fisheries	X		
3) Water-related recreation	X		
4) Aesthetics impacts		X	
5) Parks, national and historic monuments, national seashores, wilderness areas, research sites and similar preserves	X		

3. Evaluation and Testing (Subpart G).

a. The following information has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. (Check only those appropriate.)		
1) Physical characteristics		X
2) Hydrography in relation to known or anticipated sources of contaminants		
3) Results from previous testing of the material or similar material in the vicinity of the project		
4) Known, significant sources of persistent pesticides from land runoff or percolation		
5) Spill records for petroleum products or designated hazardous substances (Section 311 of CWA)		
6) Public records of significant introduction of contaminants from industries, municipalities, or other sources.		
7) Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities		

8) Other sources (specify)		
<u>List appropriate references.</u> See Environmental Assessment for Pleasant Point. All fill material will be virgin material.		
	YES	NO
b. An evaluation of the appropriate information in 3a above indicates that there is reason to believe the proposed material is not a carrier of contaminants or that levels of contaminants are substantively similar at extraction and disposal sites and not likely to require constraints. The material meets the testing exclusion criteria.	X	

4. Disposal Site Delineation (Section 230.11(f)).

a. The following information has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. (<i>Check only those appropriate.</i>)		
1) Depth of water at disposal site		NA
2) Current velocity, direction, variability at disposal site		NA
3) Degree of turbulence		NA
4) Water column stratification		NA
5) Discharge vessel speed and direction		NA
6) Rate of discharge		NA
7) Dredged material characteristics (constituents, amount, and type of material, settling velocities)		NA
8) Number of discharges per unit of time		NA
9) Other factors affecting rates and patterns of mixing (specify)		NA
<u>List appropriate references.</u> See Pleasant Point Reservation EA. Fill material will be virgin material for construction of a revetment in the intertidal.		
	YES	NO
b. An evaluation of the appropriate information factors in 4a above indicated that the disposal sites and/or size of mixing zone are acceptable.	NA	

5. Actions to Minimize Adverse Effects (Subpart H).

	YES	NO
All appropriate and practicable steps have been taken, through application of recommendation of Section 230.70-230.77 to ensure minimal adverse effects of the proposed discharge.	X	

6. Factual Determination (Section 230.11).

A review of appropriate information, as identified in Items 2 – 5 above, indicates there is minimal potential for short or long term environmental effects of the proposed discharge as related to:		
	YES	NO
a. Physical substrate at the disposal site (review Sections 2a, 3, 4, and 5 above)	X	
b. Water circulation fluctuation and salinity (review Sections 2a, 3, 4, and 5)	X	
c. Suspended particulates/turbidity (review Sections 2a, 3, 4 and 5)	X	
d. Contaminant availability (review Sections 2a, 3, and 4)	X	
e. Aquatic ecosystem structure, function and organisms (review Sections 2b and 2c, 3, and 5)	X	
f. Proposed disposal site (review Sections 2, 4, and 5)	NA	
g. Cumulative effects on the aquatic ecosystem	X	
h. Secondary effects on the aquatic ecosystem	X	

7. Findings of Compliance or Non-compliance

	YES	NO
The proposed disposal site for discharge of dredged or fill material complies with the Section 404(b)(1) guidelines.	X	

Date

Christopher J. Barron
Colonel, Corps of Engineers
District Engineer

APPENDIX E – 401/COASTAL ZONE MANAGEMENT CONSISTENCY

CZM consistency will be obtained once draft project plans are available.
