



**US Army Corps  
of Engineers®**  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Date:** November 1, 2005  
**Comment Period Ends:** January 3, 2006  
**File Number:** 2004-2355  
**In Reply Refer To:** Ted Lento

## Revised Public Notice and Announcement of a Public Hearing

Weaver's Cove Energy, LLC. ("Weaver's Cove") and Mill River Pipeline, LLC. ("Mill River") (collectively, the "Applicant") have requested Corps of Engineers ("Corps") permits under Section 10 of the Rivers and Harbors Act of 1899, Section 103 of the Marine Protection, Research and Sanctuaries Act and Section 404 of the Clean Water Act to conduct dredging in an existing Federal navigation channel, install structures and discharge fill material in wetlands and waterways for the construction of a liquefied natural gas ("LNG") import terminal and natural gas pipeline facilities. The LNG terminal would be located on a 73 acre site adjacent to the Taunton River primarily at One New Street in the City of Fall River, Massachusetts. Mill River is proposing to temporarily alter wetlands and waterways in order to construct two new lateral pipelines (referred to as the Western Lateral and Northern Lateral) that will facilitate the delivery of re-gasified LNG to the existing interstate pipeline network. The facilities of Weaver's Cove and Mill River are together referred to as "the Project". The Project facilities are also subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") pursuant to Sections 3 and 7 of the Natural Gas Act. A prior Corps Public Notice was issued for this project on August 3, 2004 and joint Corps / FERC Public Hearings were held September 8, 2004 in Massachusetts and September 9, 2004 in Rhode Island. Due to proposed project modifications we are issuing this revised notice and will convene two additional public hearings to seek comment on aspects of the Project within Corps jurisdiction.

The Applicants require Section 10/404/103 permits because the proposed work occurs within jurisdictional waters of the United States. The proposed work will predominantly occur in the Commonwealth of Massachusetts, but a portion of the navigation channel dredging will occur within the Federal Channel limits in the State of Rhode Island. This terminal site is located on the USGS Fall River quadrangle sheet at UTM zone 19 coordinates 4622349 N and 0321927 E.

The work is depicted on two sets of plans, one entitled "Weaver's Cove Energy, LLC" consisting of 37 sheets dated September 2005 with Attachment A entitled "Proposed Conceptual Site Plan", Sheet 6 of 38 revised September 2005, depicting the onshore disposal site configuration and Attachment B consisting of two figures entitled "Figure 1, Dredging Plan with Offshore Disposal and Time of Year Restrictions and Figure 2, Original Dredging Plan with Upland Placement". A second separate plan set entitled "Mill River Pipeline, LLC" consisting of 37 sheets revised October 20, 2005 depicts proposed work for construction of the Mill River pipeline laterals. These plan sets are available for viewing or downloading from the Corps Internet site [www.nae.usace.army.mil](http://www.nae.usace.army.mil) under the link for Regulatory Public Notices. Copies of the permit plans can also be mailed upon request.

## **FERC National Environmental Policy Act (NEPA) Review**

The NEPA review of the Project was conducted by the FERC with the participation and assistance of cooperating agencies including the Corps. The Final Environmental Impact Statement ("FEIS") for the Project was issued by the FERC in May 2005. The FERC Commissioners voted to approve construction and operation of the Project on June 30, 2005. The FERC subsequently issued an Order (i.e., FERC Certificate) on July 15, 2005 authorizing construction and operation of the Project that includes a number of conditions with respect to facility design and environmental mitigation. This FEIS will serve as the baseline document for the Corps in performing its evaluation of the public interest factors described below. The FEIS has been placed in the public files of the FERC (Reference Docket No. CP04-36-000) and is available for distribution and public inspection at:

Federal Energy Regulatory Commission  
Public Reference Room  
888 First Street, N.E., Room 2A  
Washington, DC 20426  
(202) 502-8371

A limited number of copies are available from the Public Reference Room identified above. In addition, copies of the FEIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the FEIS; libraries; newspapers; and parties to this proceeding. The FEIS is also available on the FERC Internet website ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number CP04-36 in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY, contact (202) 502-8659.

**The U.S. Coast Guard and FERC are the federal agencies responsible for safe vessel transit and facility operation, and the Corps will utilize the findings of these two agencies on these issues in its deliberations. The focus of this comment period and these hearings is to receive comments on the dredging and dredged material disposal aspects of the project, which is the Corps primary area of jurisdiction for this project.**

### **Work Proposed By Weaver's Cove**

The LNG Terminal to be constructed by Weaver's Cove will include LNG transfer piping, a 200,000 m<sup>3</sup> LNG storage tank, vaporization equipment, an LNG truck loading area, and necessary ancillary equipment. In addition, an existing woodpile pier and associated ship mooring structures at the LNG Terminal site will be removed and replaced with a new pile supported jetty and mooring structures required to support the berthing and unloading of LNG vessels delivering product to the terminal. Sheet piling and riprap will be used to stabilize and straighten approximately 2,650 ft of waterfront at the proposed LNG Terminal site. The existing waterfront is a mix of timber sheeting, stone riprap and gravel bank. The new sheet piling will be driven landward of the existing timber sheeting. The LNG Terminal facilities will be located within the 55-acre portion of the site that is located largely within a Massachusetts Designated Port Area ("DPA"). Approximately 0.6 acres of intertidal and subtidal habitat will be permanently filled by shoreline site development activities. The current site layout has eliminated the need to fill three small salt marsh areas as originally proposed (see Attachment A).

The Project requires maintenance and improvement dredging of the existing 7-mile long Mount Hope Bay – Fall River Harbor Federal Channel and Turning Basin, construction of a new pier/jetty, and stabilization of the shoreline at the LNG Terminal site. Weaver’s Cove anticipates that proposed maintenance and improvement dredging operations will occur within a footprint of approximately 200 acres and will produce approximately 2.1 to 2.5 million cubic yards (in situ) of dredged material. Two dredge disposal alternatives remain under consideration by Weaver’s Cove. The Project’s preferred alternative is to dispose of all suitable dredged material offshore in Federal waters at the Rhode Island Sound Disposal Site (“RISDS”) and/or the Massachusetts Bay Disposal Site (“MBDS”). An estimated 60,000 cubic yards of material beneath and around the existing wooden pier will be disposed of at an appropriate upland site (other than the LNG Terminal site). The second alternative proposes use of stabilized dredged material as engineered fill to develop the LNG Terminal site in Fall River, Massachusetts as depicted on sheet 6 of 38, Attachment A.

### **Dredged Material Management Alternatives**

The Applicant filed its December 2003 FERC application, its Corps permit application and other documents with on-site placement of stabilized dredged material as its preferred dredged material management option. In the original dredging plan, the pace of dredging was largely controlled by the pace of the on-site stabilization and placement effort. Relatively high dredging and placement rates (6,000-8,000-10,000 CY/day) were programmed for the late spring, summer and early fall months when warm, generally drier conditions would be expected. These conditions facilitate the stabilization, drying and compaction necessary for placement of the material. Much lower dredging and placement rates (approximately 2,000 cy/day) were programmed for the cold, wetter months of the year.

It was expected that one dredge would be used with locations programmed to match the seasonal placement rates (i.e., high rates in the Turning Basin in the summer months, intermediate rates in the “S-bend” area during the shoulder months, low rates in the southern reaches of the channel in the winter months). In total, the dredging effort was expected to require approximately 650 good production days over a period of approximately 975 to 1,000 calendar days (nearly 3 years). Allowances for weather delays and equipment related delays account for the difference between 650 days and the nearly three year schedule.

However, in order to work within agency recommendations for time of year restrictions for the protection of winter flounder eggs and larvae as well as the protection of the upstream anadromous fish migration, the Project is now proposing to place the suitable dredged material in a designated ocean disposal site(s). In the July 15, 2005 Certificate, FERC directs the Project to observe a January 15 through May 31 dredge restriction for the protection of winter flounder eggs and larvae. With respect to the protection of the upstream anadromous fish migration in Massachusetts, the Massachusetts Wetlands Protection Act regulations stipulate a March 15 through June 15 restriction. The combination of the two restrictions would limit dredging to a seven-month season in Massachusetts (June 16 through January 14) of each year. As shown in Attachment B to the Weaver’s Cove plan set, a dredging plan using offshore disposal and multiple dredges could be completed in three years while observing these time of year restrictions.

The National Marine Fisheries Service (NMFS) has recommended that an expanded restriction be implemented for the protection of the upstream anadromous fish migration, specifically March 1 through July 31. When combined with the winter flounder restriction, this would limit dredging to a 5 ½ month season (August 1 through January 14 of each year).

In support of the preferred offshore disposal alternative, a Tier III Sediment Analysis Plan (“SAP”) was submitted to USEPA and the Corps in January 2004. The Tier III SAP included plans for further sediment sampling as well as the necessary bioassay and bioaccumulation analyses. The Tier III sampling plan was approved by the Corps and USEPA on September 10, 2004. On April 11, 2005, Weaver’s Cove provided the Corps and the USEPA with the full laboratory results and analysis from the Tier III sampling program. After an extensive review of the data, USEPA and the Corps concluded that all of the tested sediments meet the criteria for acceptability for ocean disposal as described in Sections 227.6 and 227.27 of the Ocean Dumping Regulations, and is suitable for unrestricted ocean disposal at the RISDS and/or MBDS under USEPA Region 1/USACE-NAE (2004) guidance.

### **Potential Offshore Disposal Sites**

The Rhode Island Sound Disposal Site was designated by the Environmental Protection Agency to be usable for disposal of dredged sediments in December 2004. Prior to its site designation, it was selected for temporary use and was employed during 2003-2004 for placement of over 5 million cubic yards of sediment from the Providence River (primarily from the Federal Navigation Project). All sediments disposed at this site have been determined suitable through case-by-case analyses. The site is monitored through the Corps Disposal Area Monitoring System (DAMOS) program. The DAMOS studies show that the site is a low energy environment such that sediments deposited at this location will remain within the site's boundaries. The DAMOS monitoring has also shown that distinct dredged material mounds have been formed at the site. Sediment deposited at the disposal site has not been found to affect areas outside the disposal site.

The Massachusetts Bay Disposal Site is frequently used for disposal of bottom sediments from various harbors in the Boston area. Approximately 300,000 cubic yards of suitable sediments (suitability determined through case-by-case analyses) are deposited at this site annually. The site is monitored through the Corps Disposal Area Monitoring System (DAMOS) program. The DAMOS studies show that the site is a low energy environment such that sediments deposited at this location will remain within the site's boundaries. The DAMOS monitoring has also shown that a distinct dredged material mound has been formed at the site. Levels of metals and organics in the sediments within the disposal site are generally above background levels, indicative of the industrial nature of the areas dredged that utilize the site. Sediment deposited at the disposal site has not been found to affect areas outside the disposal site. The USEPA has designated the Massachusetts Bay Disposal Site usable for disposal of dredged sediments.

The dredged material has undergone physical, chemical, and biological testing and has satisfied the criteria for ocean disposal of dredged material as specified in part 227 of the Ocean Dumping Act regulations. It is our determination that the material is acceptable for disposal at these disposal sites.

### **Proposed Mitigation For Adverse Affects To Wetlands And Waterways**

Weaver’s Cove submitted mitigation plans for permanent impacts to non-jurisdictional isolated vegetated wetlands on the North Parcel of the LNG Terminal site and for approximately 0.04 acres of salt marsh fill on the South Parcel of the LNG Terminal site. As a result of the revised site layout depicted on the drawings referenced herein and Attachment A of the Weaver’s Cove plan set, salt marsh impacts are no longer proposed and mitigation for lost functions and values is no longer required. Notwithstanding, Weaver's Cove will continue to evaluate approximately 0.7 acres of on-site salt marsh restoration/creation in conjunction with other mitigation plans being developed for the project including an approximately 0.18 acre Palustrine, Scrub-Shrub freshwater wetland to compensate for impacts to the non-jurisdictional isolated vegetated wetlands on the North Parcel.

In addition to the above wetland mitigation plans Weaver' Cove provided the Corps with proposed shellfish habitat mitigation plans and intertidal/subtidal fill/winter flounder mitigation plans for review and comment. NMFS has indicated that approximately 11 acres of winter flounder spawning habitat may be impacted as a consequence of shoreline straightening and deepening and widening of the Turning Basin at the terminus of the Fall River-Mount Hope Bay Federal Navigation Channel. These plans remain under review by the Corps and other resource agencies and are available for public review on the Corps Internet site [www.nae.usace.army.mil](http://www.nae.usace.army.mil) under the link for Regulatory Public Notices.

### **Work Proposed By Mill River**

The facilities to be constructed by Mill River include two 24-inch diameter pipeline laterals and associated facilities that will connect the Weaver's Cove LNG Terminal to the existing pipeline facilities of Algonquin Gas Transmission Company ("Algonquin," a subsidiary of Duke Energy Corporation). The proposed approximately 2.5 mile Western Lateral will be located in Fall River, Somerset, and Swansea. It will cross under the Taunton River and then traverse in a westerly direction principally within an existing electric transmission corridor. Approximately 33,000 cy of material will be dredged for pipeline installation under the Taunton River. The proposed approximately 3.6 mile Northern Lateral will follow an existing pipeline right-of-way from Fall River into the Town of Freetown.

Approximately 14 intermittent and perennial streams (not including the Taunton River), 3.0 ac of inland vegetated wetlands, 0.52 ac of intertidal habitat (including 0.02 ac salt marsh habitat) and 0.5 ac of subtidal habitat (i.e., Taunton River crossing) will be temporarily altered by pipeline construction activities associated with the proposed Western and Northern Laterals. Approximately 0.03 ac of forested wetlands will be permanently converted to scrub shrub or emergent wetlands. Approximately 0.4 ac of scrub shrub wetland habitat will be converted to emergent wetlands.

### **General Information**

The Project purpose is to bring a new natural gas supply to the New England market. The facility will provide 0.4 Bcf/day on average, with the ability to provide 0.8 Bcf/day on peak demand days (nearly 20% of New England's current peak demand). The facility will also introduce a competitive source of LNG for delivery by truck to peak shaving facilities throughout New England.

This Project will potentially impact approximately 200 acres of Essential Fish Habitat (EFH) for the following species and life stages: haddock (larvae), red hake (larvae, juveniles, and adults), winter flounder (all life stages), windowpane flounder (all life stages), American plaice (larvae, juveniles, and adults), Atlantic sea herring (larvae, juveniles, and adults), bluefish (juveniles, and adults), Atlantic mackerel (all life stages), summer flounder (larvae, juveniles, adults), Scup (all life stages), black sea bass (juveniles, adults), King mackerel (all life stages), spanish mackerel (all life stages), and cobia (all life stages). This habitat consists primarily of subtidal bottom. The impacts on essential fish habitat from this project include shading of the bottom from the fixed structures (note: shading from new pier will be offset by removal of existing pier) temporary water quality impacts from suspended sediment during the dredging, the permanent loss of approximately 0.6 acres of the aquatic habitat areas as a result of filling inter-tidal areas for site development, and temporary loss of bottom habitat during the Taunton River pipeline construction (dredging and refilling of trench). To minimize these impacts, the Applicants have agreed to use a closed or "environmental" bucket for all work in soft depositional sediments and will conduct the dredging operations without significant

scow overflow. As previously described, time of year restrictions for the protection of winter flounder eggs and larvae as well as the upstream anadromous fish migration will be observed. All suitable dredged material will be placed in a designated offshore disposal site (RISDS and/or MBDS)

The Corps District Engineer has made a preliminary determination that the site-specific impacts may be more than minimal. An expanded EFH Assessment is being reviewed by the NMFS and further consultation with NMFS regarding EFH conservation recommendations will be concluded prior to the final permit decision.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the date in the title block above. If you have any questions, please contact Ted Lento at (978) 318-8863 or (800) 362-4367, if calling from within Massachusetts.

In addition to or in lieu of sending written comments, we invite you to attend the public hearings listed below that the Corps will conduct in the project area. Attached to this notice are directions to the public hearing sites. By attending these public hearings, the Corps seeks to fulfill its regulatory requirements to solicit public comments and input about the proposals. These comments will be considered in evaluating whether the applications should be issued or denied.

#### PUBLIC HEARING LOCATIONS

December 14, 2005

B.M.C. Durfee High School

Robert J. Nagle Auditorium

360 Elsbree Street

Fall River, MA 02720

December 15, 2005

Mt Hope High School

Performing Arts Center

199 Chestnut Street

Bristol, RI 02809

Registration begins at 4 p.m. Hearing begins at 5 p.m.

Hearing ends when public comments are complete (not later than 10 p.m.)

All interested Federal, State and local agencies, interested private and public organizations, and individuals are invited to attend either of these public hearings. Persons wishing to provide oral comments are required to register prior to the start of each hearing. Time limitations may be imposed on all comments received during the hearings.

SEE NEXT PAGE FOR  
DETAILS OF EVALUATION  
FACTORS

Karen K. Adams  
Chief, Permits & Enforcement Branch  
Regulatory Division

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

Pursuant to the Endangered Species Act, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

The following authorizations have been applied for or will be obtained:

- (X) Permit, License or Assent from State (Rhode Island and Massachusetts).
- (X) Permit from Local Wetland Agency or Conservation Commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State(s) concurrence or objection to the applicant's consistency statement.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**

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If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_