Clean Ocean Action

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Ocean Advocacy Since 1984

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VIA FACSIMILE

December 9, 2004

RE: PN# FP63-PJCA2A-2004

Comments regarding the USACOE application for dredging of Contract Area 2A of the Port Jersey Channel with proposed placement of dredged material at the HARS,

To Mr. Wisemiller and Mr. Pabst;

Enclosed are comments on behalf of Clean Ocean Action (COA, representing 170 organizations), including the over 200,000 citizens who signed petitions against ocean dumping of contaminated dredged materials.

The current proposal is part of the construction of the federal New York Harbor and Adjacent Channel, Port Jersey Channel, New Jersey Project. This project was authorized by Section 202(b) of the Water Resources Act of 1986, Public Law 99-662, as amended by, Section 337 of the Water Resources Development Act of 1999, Public Law 106-53. This work is to deepen and widen the existing non-federal 38' channel to a depth of 41' below mean low water (MLW) plus 2' for navigational safety (due to hard underlying material, which poses risks toships) with up to an additional 1.5' allowable pay overdepth. The construction of the federal channel will be done by the US Army Corps of Engineers and two non-federal project sponsors, the State of New Jersey Department of Transportation/Office of Maritime Resources (primary sponsor) and the Port Authority of New York and New Jersey (limited sponsor). These comments are on the Public Notice for Contract 2, Area 2A, which is the channel at Port Jersey.

Sediments proposed for HARS in this Public Notice include 95,000 cubic yards (CY) of Holocene, Red-Brown Sandy Sediments to be dredged after the 679,200 CY of Holocene Black Silt has been removed.

COA's concerns about the project are as follows:

1. **The sediments, as proposed, should be denied for HARS placement because levels of contamination in test organisms were not assessed using environmentally protective standards.**

   The statistically significant levels of bioaccumulation were not assessed using environmentally protective standards. The following are the toxins that bioaccumulated to statistically significant levels from the proposed Contract 2, Area 2A of Port Jersey:

   Clam- 29 Contaminants: **2 Heavy Metals** (Cd, Pb), **3 Pesticides plus Total DDT** (4,4'-DDD, 4,4'-DDE, Endosulfan sulfate), **17 PCBs plus Total PCBs** (PCB 18, PCB 28, PCB 44, PCB 49, PCB 52, PCB 66, PCB 67, PCB 101, PCB 105, PCB 118, PCB 138, PCB 153, PCB 170, PCB 180, PCB 187, PCB 206, PCB 209), **2 PAHs** (Benzo(a) anthracene and Chrysene), and **3 Dioxins**.

   Worm- 62 Contaminants: **5 Heavy Metals** (Cd, Cr, Cu, Ni, Pb), **6 Pesticides plus Total DDT** (e-Chlordane, Dieldrin, 4,4'-DDT, 4,4'-DDD, 2,4'-DDD, 4,4'-DDE), **20 PCBs plus Total PCBs** (PCB 18, PCB 28, PCB 44, PCB 49, PCB 52, PCB 66, PCB 67, PCB 101, PCB 105, PCB 118, PCB 128, PCB 138, PCB 153, PCB 170, PCB 180, PCB 183, PCB 187, PCB 195, PCB 206, PCB 209), **All 16 PAHs tested plus Total PAHs**, and **12 Dioxins**.

   COA's previous comments have consistently specified technical reasons why the currently used evaluation framework used for assessing bioaccumulation and chronic toxicity cannot be used for determining Material for Remediation and why it does not protect against adverse effects. For example, the framework used to evaluate this Port Jersey project uses effects levels that do not incorporate new information regarding effects of toxins on benthic communities and related food chains (e.g. the continued use of outdated Matrix values and effects levels for PAHs can not select for sediments that will reduce levels of contamination at HARS and cannot select against sediments that have the potential to cause adverse ecological effects to the NY Bight).

   A proposed framework for evaluating bioaccumulation test results is under review and potential revision by additional peer and public review. The currently used evaluative framework for bioaccumulation test results was developed in 1996 for the purposes of ocean dumping prior to the opening of the HARS and includes four critical matrix levels based on a "no degradation" standard developed in 1980. "Acceptable" levels of bioaccumulation have not been updated since that time with the exception of the newly revised PCB matrix value, which reflects more current scientific understanding of effects of PCBs in the marine environment (but does not uphold a "no degradation" standard). However, the currently used evaluative system (and its effects-levels) is grossly under-protective of the NY Bight because it is severely outdated, does not account for cumulative levels of contamination at HARS and

associated food chains, and can not select for sediments that will reduce biological exposure to contaminants of concern.

2. **The placement of the 95,000 CY of Reach 2 material at HARS should not be located on top of an area that has already been capped with cleaner sediments such as Pleistocene Glacial Till.**

   Concentrations of some contaminants are high in Reach 2 sediments in comparison to reference sand, especially Fluoranthene, Pyrene, Benzo(a)anthracene, Chrysene, Benzo(b)- and Benzo(k)fluoranthene, Benzo(a)pyrene and Indeno(1,2,3-c,d)pyrene). We urge you not to place this sediment on top of cleaner fill such as Pleistocene Glacial Till as this would degrade habitat and invalidate the remediation. There needs to be a clear placement plan for the HARS to ensure that areas that have already been capped with clean material, are not allowed to be covered with material that is not as clean, such as Holocene age sediments. Does the plan exist? Where will this material be placed in relation to previously placed material?

3. **The volume of dredged material to be placed at HARS is unclear.**

   There appears to be a discrepancy between the HARS and Upland distribution of sediment volumes presented in Table 1 of this PN (#FP63-PJCA2A-2004) and those presented in a Table distributed at a November 16, 2004 meeting with the Army Corp, other project members and interested parties.

Document	HARS Suitable Sediments (CY)	Upland Black Silt (CY)	Total Material Volume (CY)
PN # FP63-PJCA2A-2004	95,000	679,200	774,200
November 16, 2004 Table [1]	57,600	716,600	774,200

[1]Table entitled: Port Jersey Channel DRAFT Volume Estimates, prepared by B. Wisemiller, CENAN-PP-H dated Nov. 16, 2004

   The Table presented at the November 16th meeting was generated more recently than the PN Table 1 (dated November 10, 2004) making it unclear which of the volumes is accurate. We are commenting on the information provided in the PN which states that all 95,000 CY of the Holocene, Red-Brown Sandy sediments meet the criteria for ocean placement as determined in the joint USACE New York District and USEPA memorandum dated October 23, 2003. COA is always glad to see less material being disposed of in the ocean but we are still requesting a written explanation for the disposal discrepancy.

4. **No Barge Overflow must be a part of the dredging requirements within this project.**

   State water quality certification for the dredging phase for all Holocene material already requires environmental buckets with a slow hoist speed, however it is not clear from the PN whether no "No barge overflow" will be required during dredging to minimize suspension of fine grained particles and associated toxins.

5. Restated Issues:

In addition to the above comments, the following are long-standing issues that COA considers still unresolved. Please refer to our response to the PN for Contract Area 1 dated May 6, 2003 for the specific information related to these issues.

1. Dredging and separation of overlying recent silt/clay layers is not assured based on information provided in the PN. Requirements must be detailed in the permit that will assure that black silt has been completely removed. These requirements include specifications for corrective actions in the case that recent silt/clay sediments are encountered.

2. Cumulative effects of multiple placement events at HARS and the dredging site have not been assessed- this includes cumulative effects in the water column during dredging, effects from multiple sediment placements within a relatively short period of time, and cumulative effects of placing these sediments (and their contaminant levels) over already degraded sediments.

In conclusion, based on all the above points, this project as proposed must be denied. A written response to these comments is requested.

Sincerely,

Cindy Zipf,
Executive Director

Jennifer C. Samson

Jennifer Samson, Ph.D.
Principal Scientist