

**Participating Organizations**

*Alliance for a Living Ocean*

- American Littoral Society
- Arthur Kill Coalition
- Asbury Park Fishing Club
- Bayberry Garden Club
- Bayshore Saltwater Flyrodders
- Belford Seafood Co-op
- Belmar Fishing Club
- Beneath The Sea
- Bergen Save the Watershed Action Network
- Berkeley Shores Homeowners Civic Association
- Cape May Environmental Commission
- Central Jersey Anglers
- Citizens Conservation Council of Ocean County
- Clean Air Campaign
- Coalition Against Toxics
- Coalition for Peace & Justice
- Coastal Jersey Parrot Head Club
- Coast Alliance
- Communication Workers of America, Local 1054
- Concerned Businesses of COA
- Concerned Citizens of Bensonthurst
- Concerned Citizens of COA
- Concerned Citizens of Montauk
- Dosil's Sea Roamers
- Eastern Monmouth Chamber of Commerce
- Environmental Response Network
- Explorers Dive Club
- Fisheries Defense Fund
- Fishermen's Dock Cooperative
- Fisher's Island Conservancy
- Friends of Island Beach State Park
- Friends of Liberty State Park
- Friends of Long Island Sound
- Friends of the Boardwalk
- Garden Club of Englewood
- Garden Club of Fair Haven
- Garden Club of Long Beach Island
- Garden Club of Morristown
- Garden Club of Navesink
- Garden Club of New Jersey
- Garden Club of New Vernon
- Garden Club of Oceanport
- Garden Club of Princeton
- Garden Club of Ridgewood
- Garden Club of Rumson
- Garden Club of Short Hills
- Garden Club of Shrewsbury
- Garden Club of Spring Lake
- Garden Club of Washington Valley
- Great Egg Harbor Watershed Association
- Highlands Business Partnership
- Highlands Chamber of Commerce
- Hudson River Fishermen's Association/NJ
- Interact Clubs of Rotary International
- Jersey Coast Shark Anglers
- Jersey Shore Audubon Society
- Jersey Shore Captains Association
- Jersey Shore Running Club
- Junior League of Monmouth County
- Junior League of Summit
- Kiwanis Club of Manasquan
- Kiwanis Club of Shadow Lake Village
- Leonardo Party & Pleasure Boat Association
- Leonardo Tax Payers Association
- Main Street Wildwood
- Marine Trades Association of NJ
- Monmouth Conservation Foundation
- Monmouth County Association of Realtors
- Monmouth County Audubon Society
- Monmouth County Friends of Clearwater
- Montauk Fisherman's Emergency Fund
- National Coalition for Marine Conservation
- Natural Resources Protective Association
- Navesink River Municipalities Committee
- Newcomers Club of Monmouth County
- NJ Beach Buggy Association
- NJ Commercial Fishermen's Association
- NJ Council of Dive Clubs
- NJ Environmental Federation
- NJ Environmental Lobby
- NJ Environmental Lobby
- NJ Marine Educators Association
- NJ PIRG Citizen Lobby
- NJ Sierra Club
- NJ Windsurfing Association
- Nottingham Hunting & Fishing Club
- NYC Sea Gypsies
- NY/NJ Baykeeper
- NY Marine Educators Association
- Ocean Advocates
- Ocean Conservancy
- Ocean County Citizens for Clean Water
- Ocean Divas
- Ocean Wreck Divers
- Outreach/First Presbyterian Church of Rumson
- Piscataway Saltwater Sportsmen Club
- Raritan Riverkeeper
- Riverside Drive Association
- Rotary Club of Long Branch
- Saint George's by the River Church, Rumson
- Saltwater Anglers of Bergen County
- Sandy Hook Bay Catamaran Club
- Save Barnegat Bay
- Save the Bay
- SEAS Monmouth
- Seaweeds Garden Club
- Shark River Cleanup Coalition
- Shark River Surf Anglers
- Sheepshead Bay Fishing Fleet Association
- Shore Adventure Club
- Shore Surf Club
- Sierra Club, Shore Chapter
- Soroptimist Club of Cape May County
- South Monmouth Board of Realtors
- Staten Island Friends of Clearwater
- Strathmere Fishing & Environmental Club
- Surfers' Environmental Alliance
- Surfrider Foundation, Jersey Shore Chapter
- TACK I
- Terra Nova Garden Club
- Unitarian Universalist Congregation of Mon. County
- United Boatmen of NY/NJ
- United Bowhunters of NJ
- Volunteer Friends of Boaters
- Waterspirit
- Women's Club of Brick Township
- Women's Club of Keyport
- Women's Club of Long Branch
- Women's Club of Merchantville
- Zen Society

# Clean Ocean Action

[www.CleanOceanAction.org](http://www.CleanOceanAction.org)



*Ocean Advocacy  
Since 1984*

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## VIA FACSIMILE AND ELECTRONIC MAIL

**RE: PN # FP62-SAN2-2009; Permit Application for FEDERAL NAVIGATION PROJECT, NY Harbor Deepening of the Anchorage Channel with Placement of Dredged Material at the HARS**

Dear Mr. Schumach, Mr. Tomer, and Mr. Pabst;

Enclosed are comments on behalf of Clean Ocean Action (COA), including the over 200,000 citizens who signed petitions against ocean dumping of contaminated dredged materials. The project proposes NY Channel Deepening Project dredging of the Anchorage Channel to the authorized depth of 50 feet MLW plus 1.5 feet overdepth with disposal of approximately 963,000 cubic yards (CY) of Holocene age sand, silt, and clay at the HARS and 761,000 CY of Reach 2 material at an upland disposal site (see Table 1 for details).

Table 1: Volumes and locations of material to be dredged (reproduced from PN)

Anchorage Channel Locations	Holocene Age Material for HARS (CY)	Holocene Age Silt for Upland Disposal (CY)	Total CY
Reach 1	537,000		1,724,000
Reach 2		761,000	
Reach 3	426,000		

Clean Ocean Action has concerns about the quality of this sediment for use as remediation material at the HARS for the following reasons:

## Bioaccumulation of Contaminants from Project Sediments

The 28-day Bioaccumulation Test results reported the following toxins were bioaccumulated to statistically significant levels in worms and clams exposed to Anchorage Channel sediments as compared to reference sediments.

### REACH 1:

**Clam** – All 16 PAHs plus total PAHs, 20 PCBs out of 22 plus, Total PCBs and 1,4-Dichlorobenzene, 7 Pesticides including Dieldrin, a-Chlordane, 4,4-DDT, 4,4-DDD, 2,4-DDD, 4,4-DDE, and 2,4-DDE plus Total DDT, 11 Dioxins and 6 Metals for a total of 44 contaminants significantly above reference.

**Worm** – 14 of 16 PAHs plus total PAHs, 18 PCBs out of 22, plus total PCBs and 1,4-Dichlorobenzene, 10 Pesticides including a-Chlordane, trans-Nonachlor, Dieldrin, Endosulfan sulfate, 4,4-DDT, 2,4-DDT, 4,4-DDD, 2,4-DDD, 4,4-DDE, and 2,4-DDE plus Total DDT, and 2 Metals for a total of 47 contaminants significantly above reference.

### REACH 3:

**Clam** – 10 PAHs plus total PAHs, 14 PCBs plus total PCBs and 1,4-Dichlorobenzene, 4 Pesticides including Dieldrin, a-Chlordane, 4,4-DDD, and 4,4-DDE plus Total DDTs, 11 Dioxins and 3 Metals for a total of 45 contaminants significantly above reference.

**Worm** – 2 PAHs, 10 PCBs plus total PCBs and 1,4-Dichlorobenzene, 4 Pesticides including Dieldrin, 4,4-DDT, 4,4-DDD, 2,4-DDD, and 4,4-DDE plus Total DDTs, and 1 Metals for a total of 20 contaminants significantly above reference.

Reach 1 sediments exhibited an extremely low EC50 for blue mussel larvae, *Mytilus edulis* of 24.8% (larval survival) and a substantial number of contaminants that bioaccumulated to significant levels in both the clam and the worm, which raise serious concerns about the quality of the sediments in the reach area. To cite USACOE/EPA's own language:" the presence in the HARS of toxic effects, dioxin bioaccumulation exceeding Category I levels in worm tissue and TCDD/PCB contamination in area lobster stocks. Individual elements of the aforementioned data do not prove that sediments within the Study Area are imminent hazards to the New York Bight Apex ecosystem, living resources, or human health. However, the collective evidence presents cause for concern, justifies that a need for remediation exists, that the site is Impact Category I and the site should be managed to reduce impacts to acceptable levels<sup>1</sup>

Using the above-cited logic exhibited by the USACOE/EPA, the collective evidence presented in the sediment test results in Reach 1 conclude these project sediments presents a "cause for concern". Sediments from Anchorage Channel Reach 1 will not reduce levels of Dioxins, PCBs or PAHs at HARS and the use of these sediments will allow elevated levels of these contaminants to persist at this site relative to areas outside of the HARS.

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<sup>1</sup> HARS rulemaking preamble (62 Fed. Reg. 46142; 62 Fed. Reg. 26267).

## 2. Continued Use of an Outdated Evaluation Framework

An outdated and inappropriate evaluation framework is being used, including effects levels that do not incorporate new information regarding effects of toxins on benthic communities and associated food chains. COA's previous comments have consistently specified technical reasons why the evaluation framework currently used for assessing bioaccumulation and chronic toxicity cannot be used for determining Material for Remediation and why it cannot protect against adverse effects. Failure of the USACOE/EPA to update the evaluation framework developed in 1996 (using data from 1980) in a timely manner has undermined remediation efforts at the HARS by continuously allowing the disposal of sediments containing elevated levels of Dioxins, PAHs and PCBs. The approval of sediments from this maintenance dredging operation is a perfect example of the lack of protection provided by the current framework. The fact that the current framework did not identify these sediments as inappropriate serves to illustrate the fact that the framework cannot 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.

Clean Ocean Action attended a meeting on June 25, 2007, held by the USEPA and USACOE to introduce RMW members to an entirely different approach to determining HARS suitability of project sediments that is currently being developed exclusively by the two agencies without input from the RMW. Clean Ocean Action was told at that time, that the RMW would receive quarterly updates to report on progress and activities conducted on the Testing Evaluation Framework (TEF). The USEPA/USACOE also agreed to organize workshops for the RMW to participate in detailed technical discussions of specific areas of the evaluation process that may be considered for inclusion in any final or proposal TEF. We have yet to receive a single update or report and no follow-up meetings or workshops have been announced.

We are also awaiting the revised version of the updated HARS SMMP.

As we have stated, Clean Ocean Action is alarmed by this new direction and the exclusive manner in which it is being developed.

**In conclusion,** Clean Ocean Action has presented numerous issues regarding the proposed placement of 537,000 CY of dredged material from Reach 1 at HARS from Harbor Deepening operations at Anchorage Channel. A written response to these comments is requested.

Sincerely,



Cindy Zipf  
Executive Director



Jennifer Samson, Ph.D.  
Principal Scientist