

**Participating Organizations**

*Alliance for a Living Ocean*

American Littoral Society

Arthur Kill Coalition

Asbury Park Fishing Club

Bayberry Garden Club

Bayside 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 1034

Concerned Businesses of COA

Concerned Citizens of Bensonhurst

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 Shore Hills

Garden Club of Shrewsbury

Garden Club of Spring Lake

Garden Club of Washington Valley

Great Egg Harbor Watershed Association

Greater Point Pleasant Charter Boat 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

Kiwans Club of Mansquan

Kiwans 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 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

Picatinny Saltwater Sportsmen Club

Raritan Bay Anglers 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

Seaweeders 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 1

Terra Nova Garden Club

Unitarian Universalist Congregation of Mon. County

United Boatmen of NY/NJ

United Bowhunters of NJ

Volunteer Friends of Boaters

Watersprint

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



Ocean Advocacy  
Since 1984

## ■ Main Office

18 Hartshorne Drive  
P.O. Box 505, Sandy Hook  
Highlands, NJ 07732-0505  
Voice: 732-872-0111  
Fax: 732-872-8041  
SandyHook@CleanOceanAction.org

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

## □ Institute of Coastal Education

3419 Pacific Avenue  
P.O. Box 1098  
Wildwood, NJ 08260-7098  
Voice: 609-729-9262  
Fax: 609-729-1091  
Wildwood@CleanOceanAction.org

March 28, 2005

### VIA FACSIMILE AND POST

Lieutenant Colonel Robert J. Ruch  
District Engineer, U.S. Army Corps of Engineers  
Philadelphia District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390

**RE: Addendum to COA's Comments on the New Jersey DEP, Division of Fish and Wildlife, application (No. CENAP-OP-R-200401135-1) for a Department of the Army Permit for the reauthorization of 14 artificial reef sites and authorization for a 15<sup>th</sup> site**

Dear Lieutenant Ruch:

In light of recent events alerting us to potential misinterpretations, Clean Ocean Action (COA) submits this addendum to the comments submitted on January 17, 2005. COA submits these additional comments to clarify the position held in our previous comment letter.

As you know, the New Jersey DEP, Division of Fish and Wildlife (NJDEP or State) application was publicly noticed on December 17, 2004. Clean Ocean Action submitted comments on January 17, 2005, the closing date of the comment period. In short, COA's comments requested that the Corps "deny" the permit application because, at the time of submittal, the application was incomplete and inconsistent with state and federal policy. This is simply a matter of legal compliance. **In no way should COA's comments be construed as opposing the reef program, nor the construction or deployment of artificial reefs.** While COA's comments ask the Corps to "deny" the permit, COA simply recommends that the Corps hold the application until the deficiencies are addressed. Should the deficiencies be sufficiently addressed in a manner that is reflective of current state and federal policy and law, COA will support approval of the application.

Specifically, COA found that the permit application failed to sufficiently address three key federal and state policies and laws:

1. The list of “materials of opportunity” stated in the application included concrete-ballasted tires, obsolete subway cars, and ocean telecommunication cables. This list is outdated and does not reflect the current NJDEP policy as stated in the Policy Directive 2003-02 or the September 2004 NJ “Draft Artificial Reef Management Plan.” COA stated that the permit application must reflect current policies that exist regarding currently approved artificial reef materials.
2. The required Endangered Species Act (ESA) consultation from the National Marine Fisheries Service (NMFS) was not yet obtained. Section 7 of the ESA requires a NOAA/NMFS consultation that applies to all federal agencies and permits. Therefore, COA requested that the permit application follow federal law by seeking an ESA consultation from the appropriate agencies.
3. The permit application must include information that the requirements of the NJ Coastal Zone Management Program have been met and are consistent with state policy. In sum, COA requested that ACOE first receive concurrence from the State (the NJDEP Land Use Regulation Program) that the NJDEP Division of Fish and Wildlife correctly certify that their application is consistent with the CZMA *before* the permit is issued. This is a procedural request. As stated in the application, “[n]o permit will be issued until the State has concurred with the applicant’s certification or has waived its right to do so.” COA sought assurances that the proper procedure is followed.

To clarify each of the above points, COA submits the following additional information:

1. On January 27, 2005, ten days after the closing of the comment period, Jay Watson, Deputy Commissioner of NJ Division of Fish & Wildlife, held a meeting with representatives from COA, American Littoral Society, Recreational Fishing Alliance, and Jersey Coast Anglers Association to discuss the permit application. The State concurred that the application was inconsistent with State policy. The meeting focused on expediting actions to address the inconsistencies in a manner that would assure permit approval. The meeting concluded with all parties agreeing that the State will submit a letter to the Corps clarifying that the DEP permit application will be consistent with the National Reef Plan and New Jersey State Policy (i.e. the Policy Directive 2003-02). *See* letter from John Watson, dated February 2, 2005 (attached).
2. As of January 17, 2005, the date of COA’s comment letter, the ESA consultation had not been obtained. The ESA consultation has since been obtained. *See* letter from NOAA/NMFS to F. Cianfrani, dated February 25, 2005 (attached).
3. As of January 17, 2005, the date of COA’s comment letter, the NJDEP had not received a determination as to the Coastal Zone Management Act federal consistency. However, according to the NJDEP Land Use Regulation Program, the federal consistency determination is in progress.

COA is delighted that swift progress is being made to address the deficiencies in the application and looks forward to the ability to support the approval of the State's application.

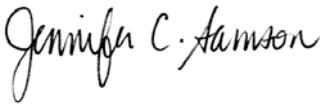
Sincerely,



Cindy Zipf  
Executive Director



Nicole Simmons  
Water Policy Analyst



Jennifer Samson, PhD  
Principal Scientist

cc: Ruth Ehinger, Office of Policy, Planning and Science,  
NJ Department of Environmental Protection

Open Letter