

Participating Organizations

Alliance for a Living Ocean
American Littoral Society
Arthur Kill Coalition
Asbury Park Fishing Club
Bayberry Garden Club
Bayshore Saltwater Flyrodgers
Belford Seaford 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 Bensenville
Concerned Citizens of COA
Concerned Citizens of Montauk
Dossil'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
Greater Point Pleasant Charter Boat Association
Hi-Mar Striper Club
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 Manasquan
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
Piscataway 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 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



*Ocean Advocacy
Since 1984*

Clean Ocean Action

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Mark Davis
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New Jersey Department of Environmental Protection
PO Box 028
Trenton, NJ 08625-0028

December 13, 2004

RE: Atlantic Highlands Municipal Harbor Dredging Project File # 1340-04-0001.2

Dear Mr. Davis;

Clean Ocean Action (COA, representing 170 organizations) has reviewed the above referenced project and, pursuant to N.J.S.A. § 7:7-4.5, submits the following comments.

The Atlantic Highlands Harbor Commission has applied for a Waterfront Development Permit/Water Quality Certificate and Acceptable Use Determination in order to maintenance dredge ~42,000 cubic yards (CY) of accumulated sediments from the Municipal Harbor (Block 7, Lots 2, 4, 6 and 7) and place them in an on-site Confined Disposal Facility (CDF). In addition to an undisclosed amount of material from the west end of the Municipal Harbor that is currently being dredged and is also scheduled to be disposed of in the CDF, COA is not opposed to maintenance dredging, as it is essential for safe navigation.

Before addressing our substantive concerns regarding the proposed project, COA strongly objects to the lack of opportunity for public participation in the review of the subject application. Public review and comment is an integral part of intelligent, fact-based development. However, to date, the Department has not provided any public notice of this project, has not conducted any public hearing (or even afforded the public a chance to request one), and has not established a period for comment and review. Moreover, COA understands that the Department intends to issue the subject permit immediately following publication of notice in this month's bulletin. While COA appreciates being given the opportunity to submit these comments (an opportunity that apparently will not be afforded to the general public), we have no assurance that the Department will give due consideration to the below concerns.

COA has the following concerns regarding the proposed project:

1. Sediment Sampling Results performed by Severn Trent Laboratories and submitted by the applicant on September 30, 2004 indicate that several different contaminants exceed the Surface Water Quality Criteria (SWQC) for Acute, Chronic and/or Human Health effects:

METAL	COMPOSITE (FILTERED/NON-FILTERED)	EXCEEDS ACUTE SWQC	EXCEEDS CHRONIC SWQC	EXCEEDS HUMAN HEALTH SWQC
Arsenic	A, B, C, D (Both F & NF)			YES
Copper	A (NF)	YES	YES	
Lead	A	YES	YES	
Manganese	A, B, C, D (Both F & NF)			YES (by as much as 20X)
Mercury	A (NF) *		YES	YES
Nickel	A & B (NF)		YES	
Silver	A (NF)	YES		

* The remaining samples, although below detection limit for Mercury, may also exceed the Chronic Criteria for Mercury (0.025 µg/l) because the detection limit is only 0.04 below the concentration reported for Comp A Elut. and concentrations of other metals are similar across the different Composite samples.

Based on the above-cited results, COA recommends that NO discharge be permitted until the water has been adequately tested (after being allowed to settle for a minimum of 24 hours) and the decant water has been demonstrated to comply with all applicable SWQCs. No discharge of water should be permitted into the surrounding water if test results indicate the SWQCs are still being exceeded. These additional conditions need to be set forth in the permit in order to adequately preserve the surrounding water quality.

2. We are requesting that discharge of decant water only be permitted in daylight hours to ensure that the discharge can be visibly monitored and there is no discoloration or detectable plume.
3. The newly projected **approximate** dredge volume of 42,000 cubic yards (CY), plus the additional material from the west end site, is very close to the maximum remaining capacity of 45,047 CY for the on-site Confined Disposal Facility (CDF). The fact that the CDF will be at or near capacity at the completion of this project creates serious concerns for several reasons:
 - A) Hydraulic dredging significantly increases the initial volume of material as large amounts of water are transported along with the sediments using this method. There is a very real possibility that as the project nears completion, there will not be enough space in the CDF to contain the sediments and water prior to dewatering. Is there some kind of a plan to deal with the limited headspace that will be available towards the end of the project?

- B) The remaining volume of the CDF is also an approximation. The volume calculations submitted by the applicant on November 5, 2004 made it clear that calculations were based on available mapping and that the CDF was designed and constructed by others. Again, we would like to know what the contingency plan is if the CDF reaches capacity before the dredging is complete.
4. The proximity of the CDF to the Mean High Water Line is as close as 18 feet in some locations and a maximum distance of only 50 feet. In the event of a major winter storm, the high water mark can be expected to significantly surpass the mean high water line. The heavy wave action associated with such storm events could undermine the retaining walls of the CDF, resulting in a breach that could contaminate the surrounding environment. As a condition of the permit, there needs to be an Operations and Management document for the CDF providing detailed information on measures taken to stabilize the retaining walls and to prevent any damage from tidal and storm surge.
 5. COA expects the January 1st to May 31st ban on dredging for the protection of early life stages of winter flounder to be enforced.
 6. Please ensure that the applicant is in possession of all required federal and state permits, as well as any applicable land use rules, regulations and requirement have been met before operations are allowed to begin. Our records indicate that the required permits include:
 - A) Waterfront Development Permit
 - B) Upland Waterfront Development Permit
 - C) Water Quality Certificate
 - D) Acceptable Use Determination
 - E) ACOE Federal Permit (CWA § 404 Permit)
 - F) Tidelands (Riparian) Conveyance

However, if other permits are required, please ensure that the City is in possession of same. If you have any questions or request anything further, please contact Jennifer Samson (science@cleanoceanaction.org) for science related concerns or Nicole Simmons (policy@cleanoceanaction.org) for policy or legal concerns at (732) 872-0111.

Sincerely,



Cindy Zipf
Executive Director



Jennifer Samson
Principal Scientist

Nicole Simmons
Water Policy Analyst