



# PUBLIC NOTICE

US Army Corps  
of Engineers  
New York District  
Jacob K. Javits Federal Building  
New York, N.Y. 10278-0090  
ATTN: Regulatory Branch

**In replying refer to:**  
Public Notice Number: NAN-2013-00462-EYA  
Issue Date: May 1, 2013  
Expiration Date: May 16, 2013

## To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

**APPLICANT:** State of New Jersey, Department of Environmental Protection  
Office of Dredging and Sediment Technology  
P.O. Box 420, Mail Code 401-04P  
Trenton, New Jersey 08625-0420

**ACTIVITY:** Dredging of sediments accumulated during Superstorm Sandy.

**WATERWAY:** Upper New York Bay, Arthur Kill, Raritan Bay and its tidal tributary waters.

**LOCATION:** Zone 1 - Metro: from Outer Bridge Crossing north to the State border. Zone 1 includes municipalities of Jersey City in Hudson County and Sewaren, Woodbridge Township, Middlesex County, New Jersey.  
Zone 2 - Raritan Bay: Northern bank of Navesink River up to the Outer Bridge Crossing. Zone 2 includes municipalities of South Amboy, Port Monmouth, and Leonardo Township in Monmouth County, New Jersey.  
Zone 1 & 2 are as described by the State of New Jersey's established debris removal zones associated with Superstorm Sandy. A map showing all the zones can be found on the State's Waterway Debris Resources website (<http://www.nj.gov/dep/special/hurricane-sandy/wwdebris.htm>)

## WORK DESCRIPTION:

The State of New Jersey suffered catastrophic damage as a result of Superstorm Sandy, which resulted in an extensive amount of sediment being washed into the State's waterways. In February 2013, the State of New Jersey awarded three contracts to companies to remove Superstorm Sandy-related, FEMA-eligible sediment from waters of the State. The New Jersey Department of Environmental Protection (NJDEP) is the State Contract Manager for this work. The duration of the contract is one year. The State's goal is to be 75% complete by June 1, 2013, with the remainder of the work to be completed within the one-year term of the contract.

The State project for Zone 1 & 2 consists of dredging and disposing of FEMA-eligible sediment (dredged material) in tributaries to Upper New York Bay, Arthur Kill and Raritan Bay. Sediments to be removed may include sand, gravel and/or silt from waterways within Zone 1 & 2. The State's contractor would dredge approximately 232,128 cubic yards of bottom material from impacted waterways of the State of New Jersey under this permit. The proposed areas to be dredged consist of:

- 1) Zone 1: storm impacted State navigation channels within Upper New York Bay and Arthur Kill, including Liberty State Park Channel and Smiths Creek Channel. (approximately 61,506 cubic yards of dredged material total)

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- 2) Zone 2: storm impacted State navigation channels within Raritan Bay, including Cheesquake Creek, Stump Creek, Waackaack Creek, Thorn Creek, Pews Creek, Comptons Creek and Leonardo Creek. ( approximately 170,622 cubic yard of dredged material total)

The proposed depth of dredging in shall be to pre-storm elevations removing FEMA-eligible sediments deposited by Superstorm Sandy. Dredging within the State navigation channel of Smiths Creek will be to a depth of -6 feet MLW or to the depth specified on the State Navigation Channel list. Dredging within Liberty State Park Channel, Cheesquake Creek, Stump Creek, Waackaack Creek, Thorn Creek, Pews Creek, Comptons Creek and Leonardo Creek will be to a depth of -14 feet MLW as these locations are considered to be tributaries of Upper New York Bay and Raritan Bay.

The contractor intends to utilize mechanical dredging equipment consisting of barge mounted excavators and clamshell buckets to remove material from the waterways. Hydraulic dredging may be utilized to remove the larger volume of material depending on accessibility of the area, volume of material to be removed, and the final NJDEP approved disposal/beneficial use location.

The dredging contractor will be directed by the NJDEP to beneficially use the material, subsequent to treatment at an upland processing facility, at a NJDEP approved upland location consisting of brownfield site remediation sites or associated with the closure of a landfill.

**PURPOSE:**

The applicant's stated purpose is to remove sand, silt, sediment and gravel from waters of the State of New Jersey to restore safe navigation and alleviate flooding to areas that have been impacted by Superstorm Sandy. The areas of proposed sand, silt, sediment and gravel removal consists of State navigation channels to Upper New York Bay, Arthur Kill and Raritan Bay that received a significant volume of beach sand due to breaches and overwash during the storm.

A preliminary review of this application indicates that the proposed work is not likely to adversely affect federally listed (threatened) species, or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. This office has determined that due to the shallow condition created by the sediment deposited as a result of the storm in the various waterways, the work will not adversely affect Atlantic Sturgeon or sea turtles as these species are not likely to be present within the areas being dredged. Where applicable, this office contemplates requiring the use of turbidity curtains during dredging operations to further ensure these species are not adversely affected during dredging. Additionally, piping plover and seabeach amaranth are not likely to be effected by the work as no material is proposed for beach placement. This office is currently in consultation with the U.S. Fish and Wildlife Service regarding this application and any necessary protection measures under the terms of an existing programmatic Biological Opinion dated December 27, 2005, which applies to any beach nourishment activities associated with the project. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination. While FEMA is providing federal funding for this project, the Corps has agreed to assume lead federal agency status for the purpose of Section 7 compliance.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts 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 reasonably may be expected to 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, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

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The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity. Comments provided will become a part of the public record for this action.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

The permit area may yield resources eligible for inclusion in the National Register of Historic Places. FEMA, as the lead federal agency, is responsible for completion of the Section 106 process. The Corps of Engineers is currently consulting with FEMA and other agencies to formulate a project protocol that would buffer potentially eligible historic properties, rendering a No Adverse Effect determination.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States at <http://www.nero.noaa.gov/hcd/webintro.html>", indicates that the proposed work may have an adverse effect on the EFH of managed species, including winter flounder eggs and larvae (*Pseudopleuronectes americanus*). Adults and juveniles are motile and could move away from the dredging equipment. Eggs and larvae could be affected because the State is proposing to commence dredging operations prior to June 1, 2013, when they could be present. While FEMA is providing federal funding for this project, the Corps has agreed to assume lead federal agency status for the purpose of preparing an EFH assessment. Consultation and coordination between the Corps and NMFS is ongoing with regard to any conservation recommendations that may be included.

Reviews of activities pursuant to Section 404 of the Clean Water Act will 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 the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occurs. For activities within the coastal zone of New Jersey State, the applicant's certification and accompanying information is available from the New Jersey Department of Environmental Protection, Coastal Management Program, P.O. Box 418, 401 E. State Street, Trenton, NJ, 08625, Telephone (609) 633-2201. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

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In order for us to better serve you, please complete our Customer Service Survey located at:  
<http://www.nan.usace.army.mil/business/buslinks/regulat/index.php?survey>.

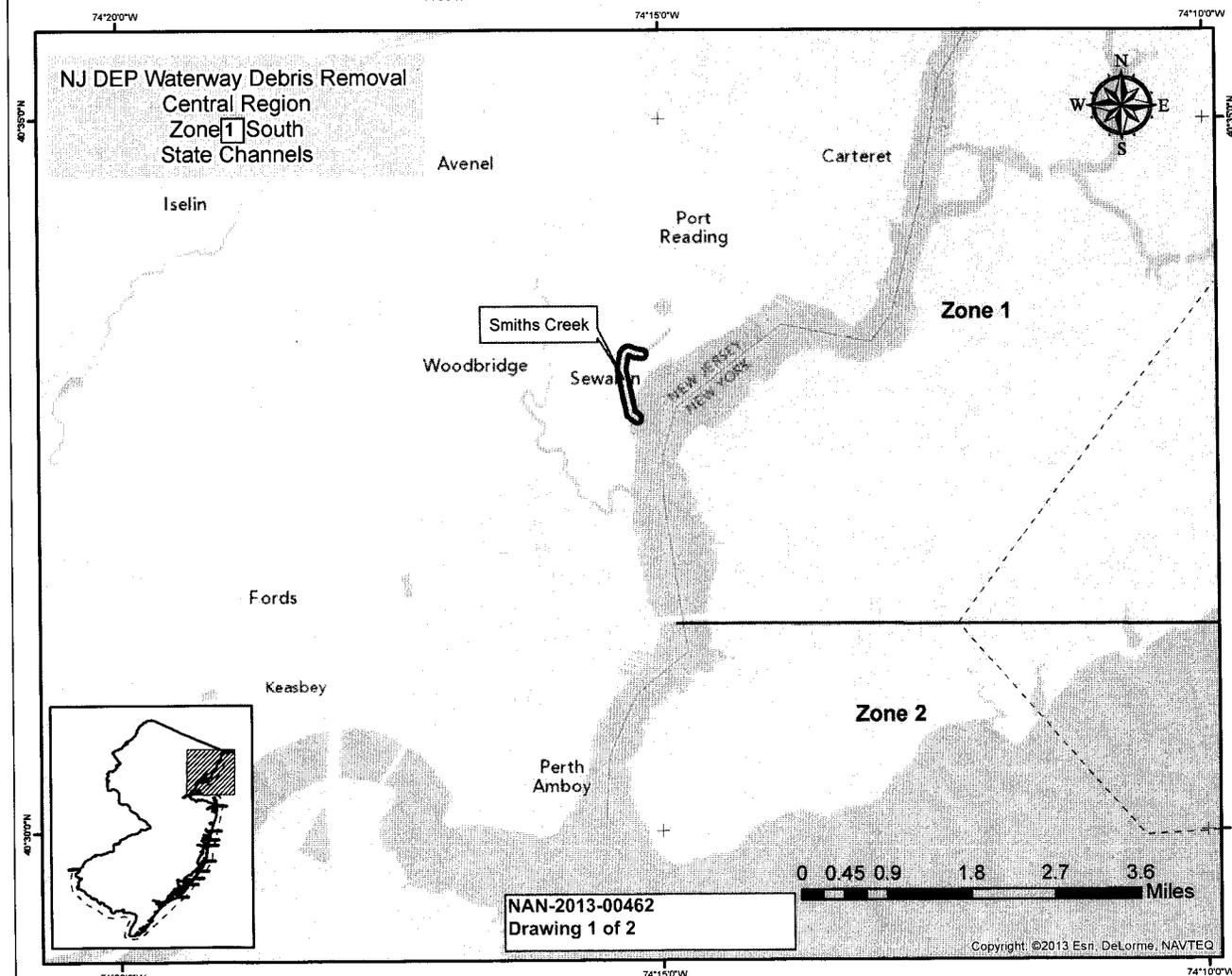
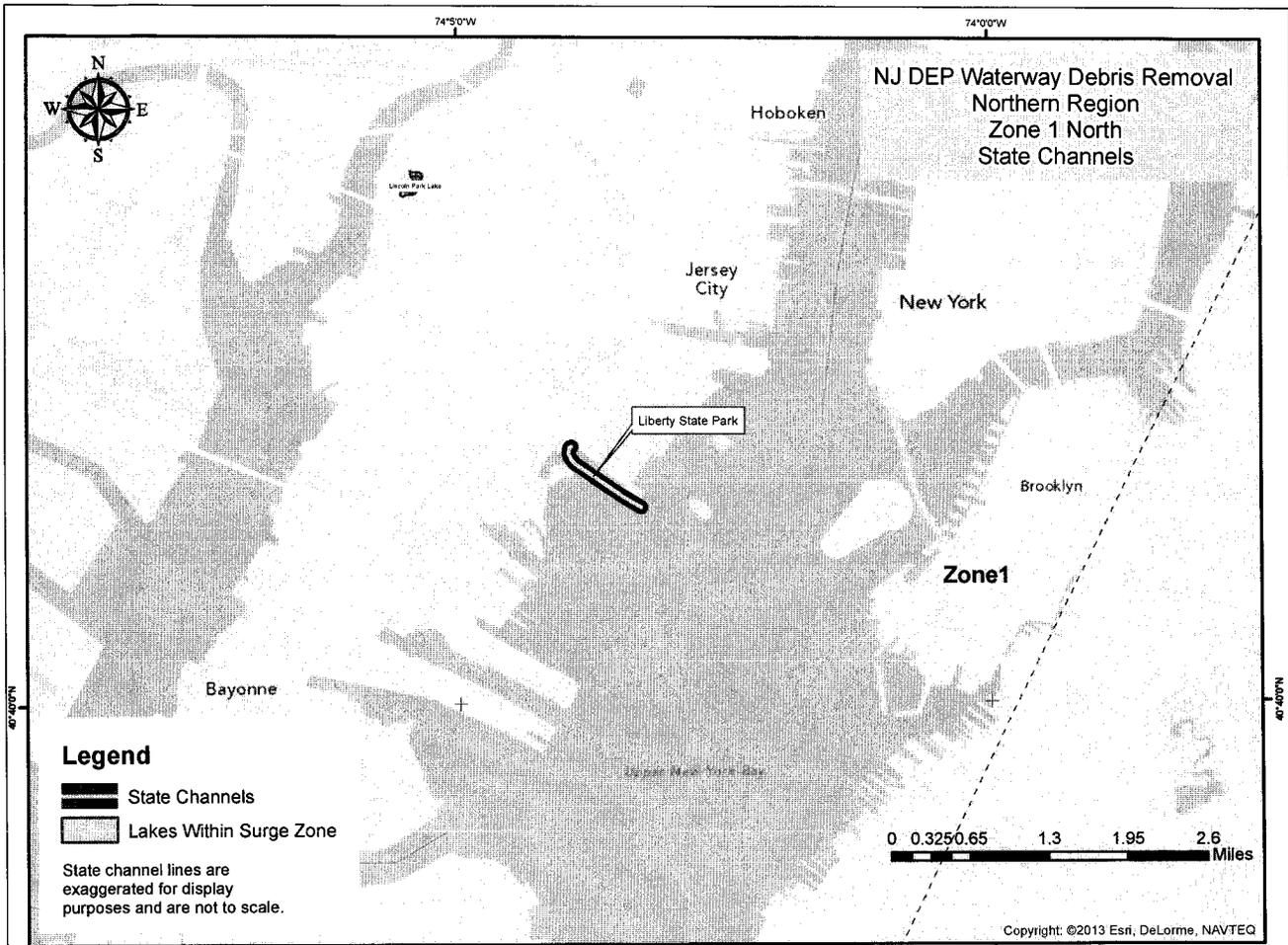
It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice.

Additional information concerning this permit application may be obtained by calling Jun Yan at (917) 790 -8092, send electronic mail at [jun.yan@usace.army.mil](mailto:jun.yan@usace.army.mil) or by writing to this office at the above address.



Jodi M. McDonald  
Chief, Regulatory Branch

Enclosures



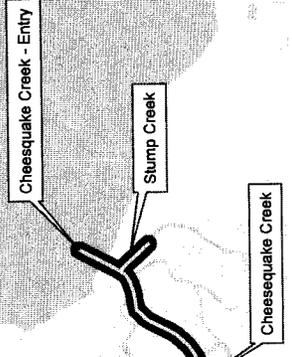


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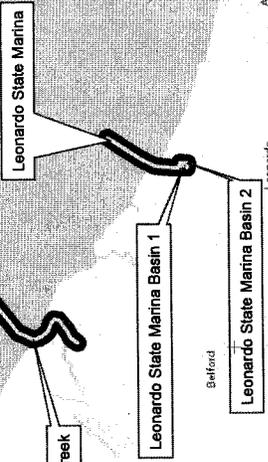
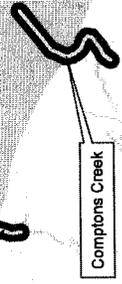
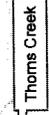
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# NJ DEP Waterway Debris Removal Northern Region Zone 2 State Channels



## Zone 2



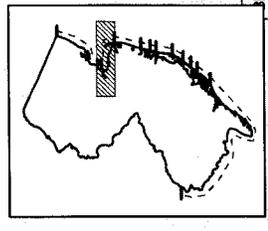
### Legend

- State Channels
- Lakes Within Surge Zone

State channel lines are exaggerated for display purposes and are not to scale.



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Drawing 2 of 2



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