



**US Army Corps
of Engineers**

New York District
26 Federal Plaza
New York, N.Y. 10278
ATTN: CENAN-OP-ST

Public Notice

In replying refer to:
Public Notice No. 09 JAMAICA Bay Federal Navigation Channel
Published: September 19, 2008 Expires: October 19, 2008

JAMAICA BAY, NEW YORK FEDERAL NAVIGATION PROJECT MAINTENANCE DREDGING

TO WHOM IT MAY CONCERN:

The New York District, U.S. Army Corps of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899, Section 404 (33 U.S.C. 1344) of the Federal Water Pollution Control Act (amended in 1977 and commonly referred to as the Clean Water Act), and Section 103 (U.S.C. 1413, 86 Statute 1052) or Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 (commonly referred to as the Ocean Dumping Act), proposes to perform maintenance dredging of the Jamaica Bay Federal Navigation Project (see Figure No. 1) with subsequent placement of the dredged material for environmental remediation purposes at the Historic Area Remediation Site (HARS, see Figure No. 2A and 3A).

ACTIVITY: Maintenance dredging of the Jamaica Bay Federal Navigation Project with placement of the dredged material at the HARS for the purpose of remediation.

WATERWAY: Rockaway Inlet

LOCATION: Queens County, New York

The Jamaica Bay Federal Navigation Project was authorized by the River and Harbors Acts of 25 June 1910, House Document No. 1488, 60th Congress, 2nd session, and as modified in the subsequently Rivers and Harbors Acts of 1945 and 1950.

The existing navigation project at Jamaica Bay authorizes a 20 feet deep, 1,000 feet wide entrance channel connecting to two interior (bay) channels with deep water in the Atlantic Ocean. Additionally, the outer entrance channel is protected by one riprap jetty. The length of the outer entrance channel is approximately 2 miles.

A detailed description of the proposed activities is enclosed to assist in your review. This activity is being evaluated to determine that the proposed placement of dredged material will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems or economic potentialities. On September 26, 2000, the USEPA

and Corps of Engineers signed a Memorandum of Agreement (MOA) outlining the steps to be taken to ensure that remediation of the HARS continues in a manner appropriately protective of human health and the aquatic environment. In making the determination, the criteria established by the Environmental Protection Agency (EPA) will be applied, including the interim change to one matrix value for PCB's as described in the MOA. In addition, based upon an evaluation of the potential effect which the failure to utilize this ocean site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, an independent determination will be made of the need to place the dredged material in ocean waters, other possible methods of disposal, and other appropriate locations.

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. Comments are used to assess impacts on navigation, water quality, endangered species, historic resources, wetlands, scenic and recreational values, and other public interest factors. Comments are used in the preparation of an Environmental Assessment (EA) pursuant to the National Environmental Policy Act and to determine the need for a public hearing.

ALL COMMENTS REGARDING THIS ACTIVITY MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE AT THE ADDRESS ON THE FRONT PAGE BEFORE THE EXPIRATION DATE OF THIS NOTICE. otherwise, it will be presumed that there are no objections to the activity. At the same time, all comments must be submitted to the New York State Department of State as well, to the following address:

New York State Department of State
Division of Coastal Resources
Attn: Consistency Review
41 State Street
Albany, NY 12231-0001

Pursuant to Section 307 of the Coastal Zone Management Act of 1972 as amended [16 USC 1456(c)], for activities conducted or supported by a federal agency in a state which has a federally approved Coastal Zone Management (CZM) program, the Corps has submitted a determination that the proposed project is consistent with the State CZM program to the maximum extent practicable. For activities within the coastal zone of the State of New York, project information is available from the address above, or by telephoning (518) 402-3399.

Any person who has an interest which may be affected by the placement of this dredged material may request a public hearing. The request must be submitted in writing to the District Engineer within the comment period of this notice and must clearly set forth the interest which may be affected and the manner in which the interest may be affected by the activity. It should be noted that information submitted by mail is considered just as carefully in the process and bears the same weight as that furnished at a public hearing.

The proposed project was reviewed based upon the "Biological Assessment for the Closure of the Mud Dump Site and Designation of the Historic Area Remediation Site (HARS) in the New York Bight and Apex", (USEPA, 1997). Based upon this review, and a review of the latest public listing or threatened and endangered species, it has been preliminarily determined that the proposed activity for which authorization is sought herein, is not likely to adversely affect any federally-listed threatened or endangered species (humpback whales, finback whales, right whales, loggerhead

turtles, leatherback turtles, green turtles, and Kemp's Ridley turtles) or their critical habitat pursuant to Section 7 of the Endangered Species Act (16 USC 1531).

Proposed HARS placements will not result in Remediation Material being placed within .27 nautical miles of any identified wrecks, as indicated in the National Register of Historic Places. Other than wrecks, there are no known sites eligible for, or included in, the Register within the project area. No known archaeological, scientific, prehistorical or historical data are expected to be lost by work accomplished under the required dredging.

Reviews of the activity pursuant to Section 404 of the Clean Water Act will include application of the guidelines announced by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. The Corps obtained a water quality certificate (WQC) from the New York State Department of Environmental Conservation in June 2004 in accordance with Section 401 of the Clean Water Act; this WQC, which will remain in effect through 2014, allows for dredged material from Jamaica Bay Channel to be stockpiled at Floyd Bennett Field or placed at a designated nearby beach.

Pursuant to Section 307 of the Coastal Zone Management Act of 1972 as amended {16 USC 1456(c)}, for activities conducted or supported by a federal agency in a state which has a federally approved Coastal Zone Management (CZM) program, the Corps has submitted a determination that the proposed project is consistent with the State CZM program to the maximum extent practicable. The Corps will request that State's concurrence with that determination. For activities within the coastal zone of the State of New York, project information is available from the Consistency Coordinator, New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, 41 State Street, Albany, New York 12231, Telephone (518) 474-6000.

In compliance with Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (1996 amendments), an Essential Fish Habitat Assessment will be prepared and submitted to the National Marine Fisheries Service for review and comment.

The proposed work is being coordinated with the following Federal, State and local agencies:

- U.S. Environmental Protection Agency
- U.S. Department of the Interior, Fish and Wildlife Service
- U.S. Department of Commerce, National Marine Fisheries Service
- U.S. Coast Guard, First District
- New York State Department of Environmental Conservation
- New York State Department of State

If you have any questions concerning this notice, you may contact this office at (917) 790-8404 and ask for Mr. Joseph Olha. Comments or questions may be FAXED to (212) 264-1463 ATTN: Mr. Joseph Olha. Questions about the HARS can be addressed to Mr. Douglas Pabst, Team Leader, Dredged Material Management Team, US Environmental Protection Agency, Region 2 at (212) 637-3797.

DESCRIPTION OF PLANNED ACTION:

The U.S. Army Corps of Engineers, New York District, proposes to perform maintenance dredging of the *entrance channel portion, from Mile 0 to Mile 1.7* of the Jamaica Bay Federal

Navigation Project. The channel was last dredged in 2004/2005 with the removal of approximately 183,000 cubic yards (CY) of sediment and stockpiled at Floyd Bennett Field for use in the Marsh Islands restoration project. The proposed maintenance dredging would involve the removal of up to 333,000 cubic yards of material, based on a Specifications survey dated April 2008. Maintenance dredging of the channel is usually accomplished by hopper dredge, or similar plant. The entire channel will generally not require maintenance dredging; only areas where shoaling has reduced the depth of the channel will require dredging.

The Jamaica Bay entrance channel 20 feet deep and 1,000 feet wide will be dredged to a project depth of 20 feet MLW plus 1 foot allowable overdepth.

The U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District have evaluated bathymetric surveys, bottom sediment core logs and ocean currents data from the Jamaica Bay Channel area to determine whether the proposed dredged material meets the criteria for ocean placement without additional testing as described in the Ocean Dumping Regulations at 40 CFR 227.13(b)(1). As specified in the regulations, the proposed dredged material satisfies these criteria if it is composed predominantly of sand, gravel, rock, or any other naturally occurring bottom material with particle sizes larger than silt, and the material is found in areas of high current or wave energy such as streams with large bed loads or coastal areas with shifting bars and channels. The U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District evaluation has shown that sand to be dredged from the Jamaica Bay Channel meets the requirements of 40 CFR 227.13(b)(1) and is suitable for placement in the ocean at the Historic Area Remediation Site (HARS) as Remediation Material without additional evaluation.

This public notice serves to announce the government's intent and identifies the proposed location for placement of up to 333,000 cubic yards of material. The dredging and placement at the HARS for this project is planned for December to March.

ENVIRONMENTAL IMPACT STATEMENT:

The material to be placed at the HARS is dredged material that will be removed from the Jamaica Bay Federal Navigation Channel. The material has been evaluated and found to meet the regulatory testing criteria of 40 CFR Sections 227.6 and 227.27 and the requirements of the rule establishing the HARS in Section 228.15(d)(6). It has been determined that maintenance dredging of Jamaica Bay Channel, with placement of the dredged material at the HARS would have no significant adverse environmental impact on water quality, marine resources, fish, wildlife, endangered species, recreation, aesthetics and flood protection of the area. An update of the EA and a 404 (b) evaluation as required by the Clean Water Act 40 CFR 230 will be prepared prior to the implementation of the proposed work.

PLACEMENT SITE:

The dredged material from this project is proposed to be placed at the HARS (see next section: Introduction to the HARS) using the bottom dumping process. Based upon review of the latest published version of the National Register of Historic Places, two wrecks, believed to be the HLW Lew and the ORMOND, were found in Remediation Area Number 1. As noted in the designation of the HARS, Remediation Material would not be allowed to be placed within .27 nautical miles of the identified wrecks or other wrecks that might be found.

INTRODUCTION TO THE HARS:

In 1972, the Congress of the United States enacted the Marine Protection Research and Sanctuaries Act (MPRSA) to address and control the dumping of materials into ocean waters. Title 1 of the Act authorized the US Environmental Protection Agency (USEPA) and the US Army Corps of Engineers (USACE) to regulate dumping in ocean waters. USEPA and USACE share responsibility for MPRSA permitting and ocean disposal site management. USEPA regulations implementing MPRSA can be found at 40 CFR Sections 220 through 229. With few exceptions, MPRSA prohibits the transportation of material from the United States for the purpose of ocean dumping except as may be authorized by a permit issued under the MPRSA. The MPRSA divides permitting responsibility between the USEPA and USACE. Under Section 102 of the MPRSA, USEPA has responsibility for issuing permits for all materials other than dredged material. Under Section 103 of MPRSA, the Secretary of the Army has the responsibility for issuing permits for dredged material. Determinations to issue MPRSA permits for dredged material are subject to USEPA concurrence.

In the fall of 1997, the USEPA de-designated and terminated the use of the New York Bight Dredged Material Disposal Site (commonly known as the Mud Dump Site or MDS). The MDS had been designated in 1984 for the disposal of up to 100 million cubic yards of dredged material from navigation channels and other port facilities within the Port of New York and New Jersey. Simultaneous with the closure of the MDS, the site and surrounding areas that had been used historically as disposal sites for dredged materials were redesigned as the HARS at 40 CFR Sections 228.15(d)(6) (See 62 Fed. Reg. 46142 (August 29, 1997); 62 Fed. Reg. 26267 (May 13, 1997)). The HARS will be managed to reduce impacts of historical disposal activities at the site to acceptable levels in accordance with 40 CFR Sections 228.11(c). The need to remediate the HARS is supported by the presence of toxic effects, dioxin bioaccumulation exceeding Category 1 levels (a definition of which appears in an evaluation memorandum reviewing the results of the testing) in worm tissue, as well as TCDD/PCB contamination in area lobster stocks. Individual elements of those data do not establish 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, and justifies the need for remediation. Further information on the condition in the Study Area and the surveys performed may be found in the Supplemental Environmental Impact Statement (USEPA, 1997).

The HARS designation identifies an area: (see Figure No. 2 and 3) in and around the MDS which has exhibited the potential for adverse ecological impacts. The HARS will be remediated with dredged material that meets current Category 1 standards and will not cause significant undesirable effects including through bioaccumulation or unacceptable toxicity, in accordance with 40 CFR 227.6. This dredged material is referred to as "Material for Remediation" or "Remediation Material."

The HARS, which includes the 2.2 square nautical mile area of the MDS, is an approximately 15.7 square nautical mile area located approximately 3.5 nautical miles east of Highlands, New Jersey and 7.7 nautical miles south of Rockaway, New York. The MDS is located approximately 5.3 nautical miles east of Highlands, New Jersey and 9.6 nautical miles south of Rockaway, New York. When determined by bathymetry that capping is complete, the USEPA will take any necessary rulemaking to de-designate the HARS. The HARS includes the following three areas:

Priority Remediation Area (PRA): A 9.0 square nautical mile area to be remediated with at least 1 meter of Remediation Material. The PRA encompasses the area of degraded sediments as described in greater detail in the SEIS.

Buffer Zone: An approximately 5.7 square nautical mile area (0.27 nautical mile wide band around the PRA) in which no placement of the Material for Remediation will be allowed, but which may receive Material for Remediation that incidentally spreads out of the PRA.

No Discharge Zone: An approximately 1.0 square nautical mile area in which no placement or incidental spread of Material for Remediation is allowed.

Over the past years, the U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District have been refining the approach to the technical review and scientific and regulatory analysis of dredging projects' dredged materials proposed for placement at the Historic Area Remediation Site (HARS). Sediment testing evaluation processes are evolving, which establish a responsible framework for assessing results of physical, chemical and bioaccumulation test results, to include tissue analysis from bioaccumulation testing of dredged materials proposed for ocean placement. The bioaccumulation framework defines a standard approach for assessing each analyte (an item to be analyzed for as part of the testing), in relation to regulatory and human health and environmental risk factors. The framework's purpose is to facilitate decision, and final decision making, in accordance with the Marine Protection, Research and Sanctuaries Act of 1972. The U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District utilize these testing evaluation processes for identifying Historic Area Remediation Site (HARS)-suitable dredged materials for remediation of the Historic Area Remediation Site (HARS).

To improve management and monitoring of placement activities at the HARS, electronic monitoring equipment will be on-board any barges carrying Remediation Material to the HARS. This equipment records vessel positions throughout the duration of each trip to the HARS and during remediation operations. To improve communication reliability between tugs and scows, a prescribed formal communication procedure has been put in place (copies of this procedure are available upon request).

Additional information concerning the HARS can be obtained from Mr. Douglas Pabst of the USEPA, Team Leader of the Dredged Material Management Team, at (212) 637-3797.

Conclusion

Based upon the results of grain size analysis of the sediments proposed for dredging from Jamaica Bay Federal Navigation Channel, the USACE and the USEPA have determined that the material is Category 1, meeting the criteria for ocean placement as described in 40 CFR parts 227.6, 227.27, and 228.15, and is Remediation Material as defined under the USEPA Region 2/USACE, New York District guidance.

Placement of this material at the HARS will serve to reduce impacts at the HARS to acceptable levels and improve benthic conditions. Sediments in the HARS have been found to be acutely toxic to sensitive benthic marine organisms in laboratory tests. Placement of project material over existing toxic sediments would serve to remediate those areas for toxicity. In addition, by covering the existing sediments in the site with this project material, surface dwelling organisms will be exposed to sediments exhibiting Category 1 qualities, whereas the existing sediments exceed these levels.

ALTERNATIVES TO HARS PLACEMENT:

As to ocean placement of dredged material, the Ocean Dumping Regulations [Title 40 CFR Sections 227.16(b)] state that "...alternative methods of disposal are practicable when they are available at reasonable incremental cost and energy expenditures which need not be competitive with the costs of ocean dumping, taking into account the environmental impacts associated with the use of alternatives to ocean dumping...." The U.S. Army Corps of Engineers, New York District has evaluated the regional practicability of potential disposal alternatives in the September 1999 Draft Implementation Report for the "Dredged Material Management Plan for the Port of New York and New Jersey". The Recommended Plan within the report addresses both the long and short term dredged material placement options in two specific timeframes, heretofore referred to as the 2010 Plan and the 2040 Plan respectively.

The 2010 Plan relies heavily on the creation, remediation, and restoration of a variety of existing degraded or impacted habitats in the region with material that would be considered unsuitable for HARS restoration. The remaining material is treated and stabilized, as needed, and then applied to remediate degraded and potentially polluting areas such as brownfields, landfills, and abandoned strip mines. Nearly all of the options considered in the 2010 Plan have a placement cost of \$43/cubic yard or higher.

Similar to the 2010 Plan, the 2040 Plan relies heavily upon the use of land remediation and decontamination methods for the management of HARS unsuitable material. As in the 2010 Plan, maximum use of all practicable alternatives to the HARS is envisioned.

Many of dredged material management options presented in the 2010 Plan however, are not presently permitted and/or are presently under construction at this time and therefore considered unavailable for the purposes of this project. Other options are not available at reasonable incremental costs, thus leaving HARS placement as the preferred alternative. For more information on the New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>.

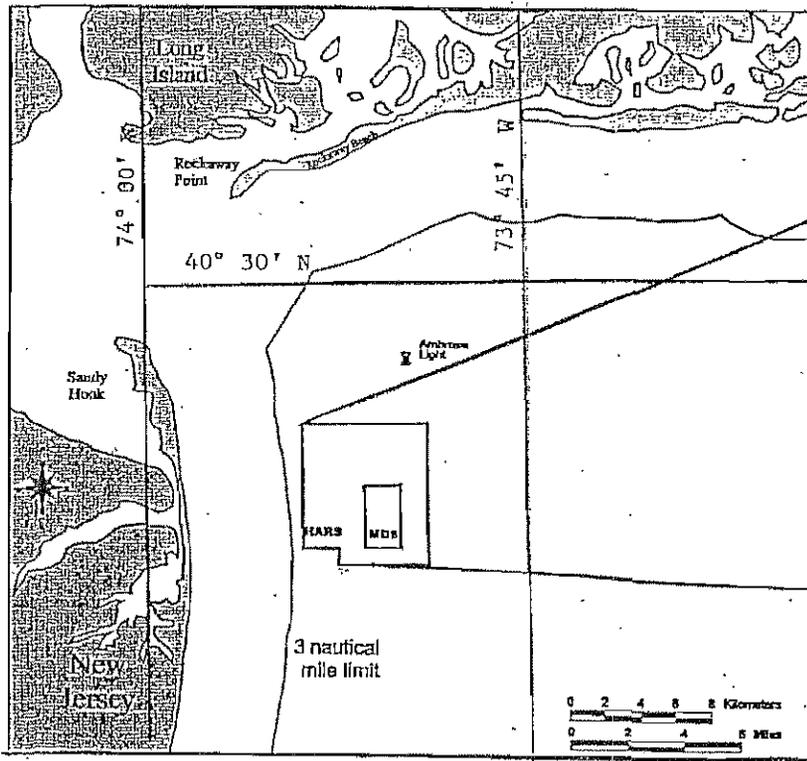
It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and who did not receive a copy of this notice.



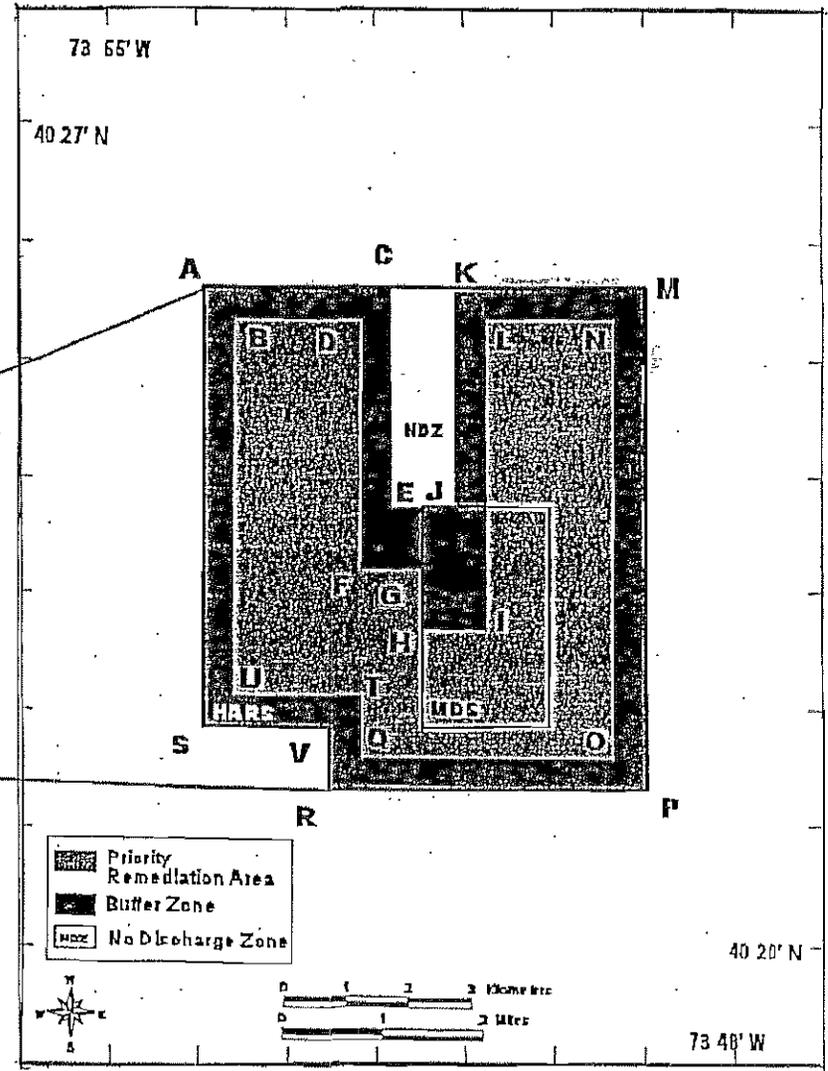
Randall G. Hintz
Chief, Operations Support Branch

Enclosures
as stated

HISTORIC AREA REMEDIATION SITE LOCATION MAP



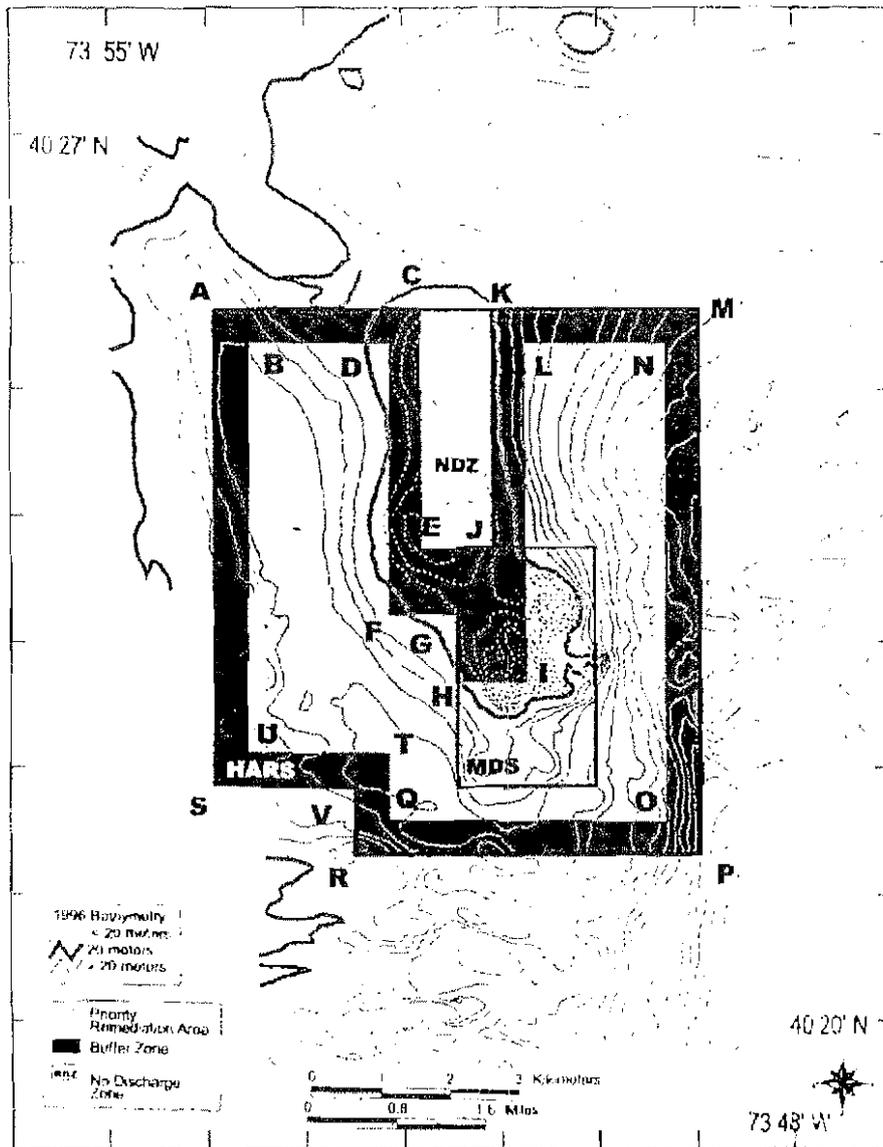
LOCATION OF PRIMARY REMEDIATION AREA WITHIN THE HISTORIC AREA REMEDIATION SITE



00900 ATT. A-2

FIGURE 2

Figure 3



HARS Priority Remediation Area Coordinates

Point	Latitude DMS*	Longitude DMS*	Latitude DDM**	Longitude DDM**
B	40° 25' 23" N	73° 53' 34" W	40° 25.38' N	73° 53.57' W
D	40° 25' 22" N	73° 52' 08" W	40° 25.37' N	73° 52.13' W
F	40° 23' 13" N	73° 52' 09" W	40° 23.22' N	73° 52.15' W
G	40° 23' 13" N	73° 51' 28" W	40° 23.22' N	73° 51.47' W
H	40° 22' 41" N	73° 51' 28" W	40° 22.68' N	73° 51.47' W
I	40° 22' 41" N	73° 50' 43" W	40° 22.68' N	73° 50.72' W
L	40° 25' 22" N	73° 50' 44" W	40° 25.37' N	73° 50.73' W
N	40° 25' 22" N	73° 49' 19" W	40° 25.37' N	73° 49.32' W
O	40° 21' 35" N	73° 49' 19" W	40° 21.58' N	73° 49.32' W
Q	40° 21' 36" N	73° 52' 08" W	40° 21.60' N	73° 52.13' W
T	40° 22' 08" N	73° 52' 08" W	40° 22.13' N	73° 52.13' W
U	40° 22' 08" N	73° 53' 34" W	40° 22.13' N	73° 53.57' W

* Degrees, Minutes, Seconds ** Degrees, Decimal Minutes

Figure 3B The Historic Area Remediation Site (HARS). The New York Mud Dump Site (MDS) is indicated by box