



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: 2004-00683-RS
Issue Date: 3 August 2004
Expiration Date: 3 September 2004

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 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

APPLICANT: American Sugar Refining, Inc.
1 Federal Street
Yonkers, NY 10702

ACTIVITY: Discharge fill material into waters of the United States in order to form a "soft dike"

WATERWAY: Hudson River

LOCATION: City of Yonkers, Westchester County, New York.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

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 benefits 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, historical properties, fish and wildlife values, 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, consideration of property ownership and, in general the needs and welfare of the people.

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.

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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.

Based upon a review of the latest public listing of threatened and endangered species, it has been preliminarily determined that the proposed activities for which authorization is sought herein, are not likely to affect the federally threatened or endangered species shortnose sturgeon, or their critical habitat pursuant to Section 7 of the Endangered Species Act (ESA; 16 USC 1531). The USACE New York District is conducting formal consultations with the National Marine Fisheries Service in accordance with Section 7 of the Endangered Species Act.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Information on conditions at the project site and on the proposed work that would be undertaken is given in the attached Work Description. A preliminary review of the proposal and information submitted by the applicant indicates that most EFH-managed species do not heavily utilize the area and that ecological conditions favored by many of the species are not found at the dredge site. The primary effects on EFH (and EFH-managed species) would be a temporary increase in turbidity due to the discharge of fill material and disruption of demersal and pelagic habitat. These impacts would be short-lived episodes which are expected to last a total of approximately one month. In addition, throughout the duration of the demonstration project, there would be a change in habitat due to the presence of the deflection structure. Therefore, based on the foregoing, the District Engineer has made the preliminary determination that the site-specific adverse effects are not likely to be substantial. Further consultation with NMFS regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

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 occur. For activities within the coastal zone of New York State, the applicant's certification and accompanying 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. 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 addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

**A Protection of Waters Permit from the New York State Department of Environmental
Conservation**

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. If you have any questions concerning this application, you may contact this office at (212) 264-0184 and ask for Mark Steven Roth.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>

FOR 
Richard L. Tomer
Chief, Regulatory Branch

Enclosures

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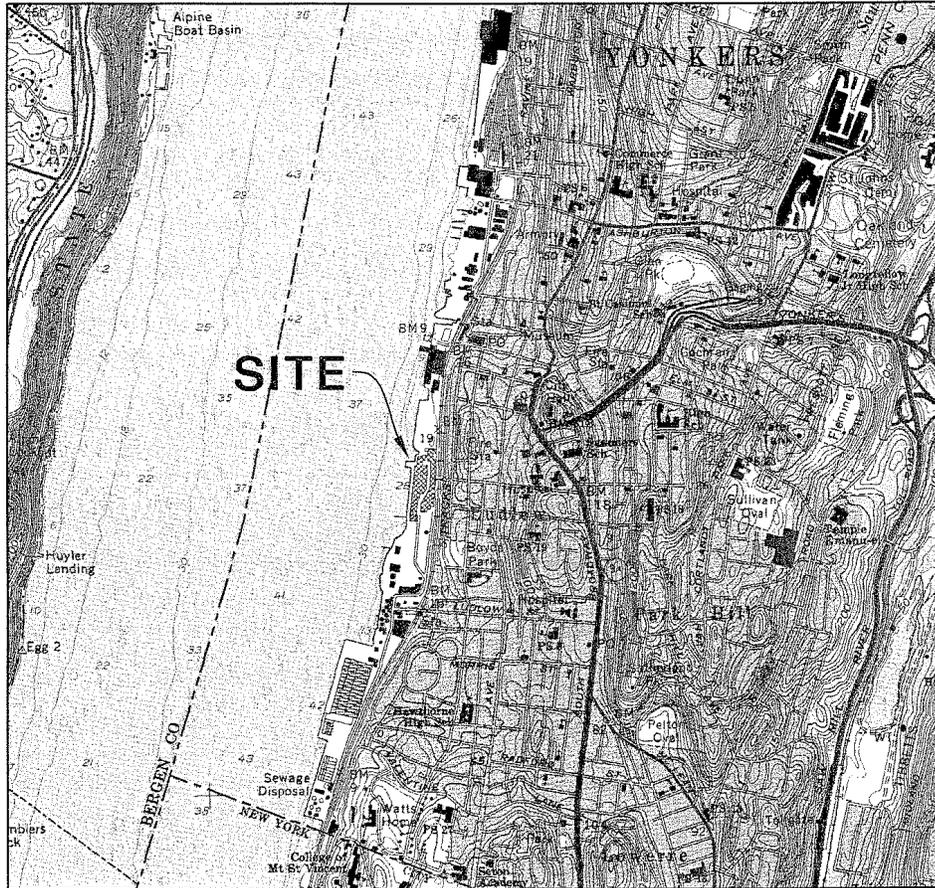
WORK DESCRIPTION

The applicant, American Sugar Refining, Inc., has requested Department of the Army authorization to discharge fill material in the Hudson River in the City of Yonkers, Westchester County, New York.

The work would involve the discharge of fill material in the form of sand-filled geotextile bags. Each of these bags, filled with three cubic yards of sand, would be dropped on the river bottom from split-hull barges in a pattern that would form a "soft dike". Each geotextile bag would be filled in an on site barge. A total of approximately 5,000 cubic yards of sand would be used. The soft dike would act as a current deflection structure. At its base, the soft dike would be approximately 270 feet long by 90 feet wide, and rise from a bottom elevation of approximately 32 feet below the plane of Mean Low Water to an elevation of 10 feet below the plane of Mean Low Water. The soft dike, with an areal expanse of approximately 0.58 acres of river bottom, would be located just north of the applicant's berthing area.

In order to make the public aware of the soft dike's presence, the applicant proposes to install two US Coast Guard lighted buoys.

It should be noted that presently the applicant annually dredges its berthing area and places that material at the Historic Area Remediation Site in the Atlantic Ocean. Therefore, the purpose of the proposed work is to demonstrate that the soft dike would sufficiently deflect river currents so as to eliminate the continuous deposition of silt in the berthing area and the applicant's need to annually dredge its berthing area.



VICINITY MAP

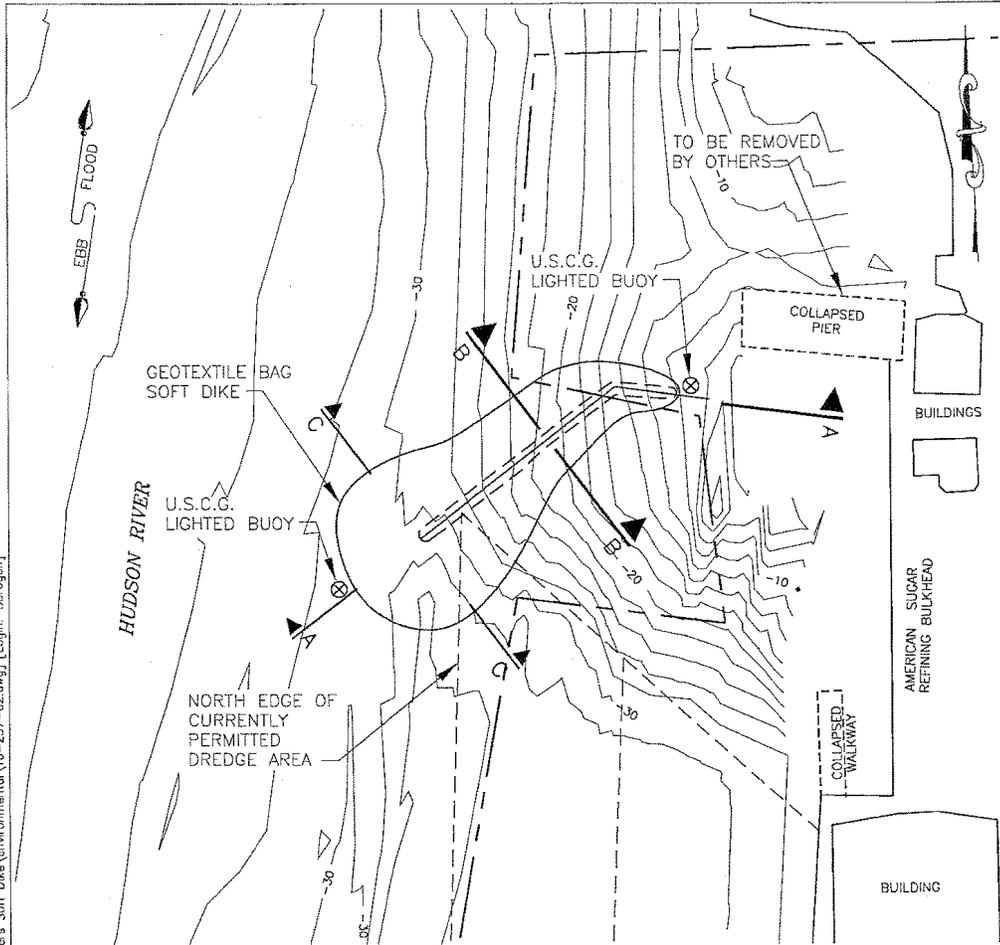
IMAGE FROM TOPOGRAPHIC MAP – YONKERS, NY

INDEX OF SHEETS:

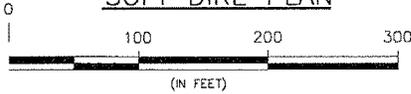
- SHEET 1 – VICINITY MAP
- SHEET 2 – SITE PLAN: SUBMERGED SOFT DIKE STRUCTURE
- SHEET 3 – PROFILES: SUBMERGED SOFT DIKE STRUCTURE
- SHEET 4 – U.S.C.G. BUOY DETAIL

AMERICAN SUGAR REFINING, INC.
YONKERS, NEW YORK
PROPOSED STRUCTURE

Mar 09, 2004 - 11:19:20 [P&O FILE: C:\CAD\ACAD\10-257\Yonkers_Soft_Dike\environmental\10-257-02.dwg] [Login: SBrogan]



SOFT DIKE PLAN

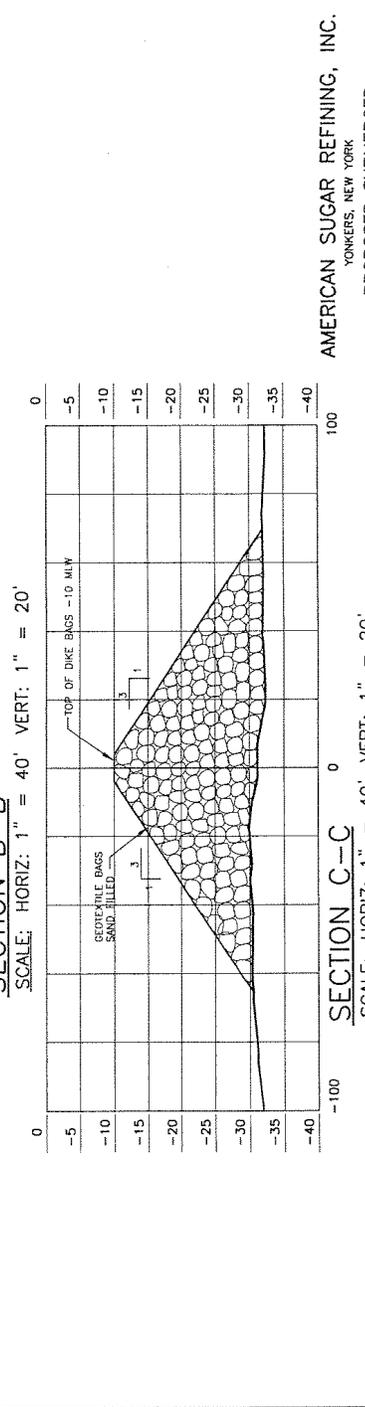
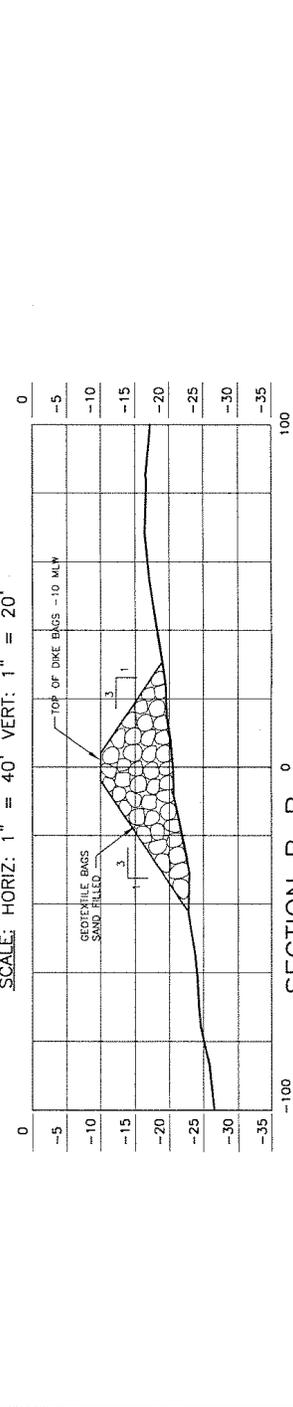
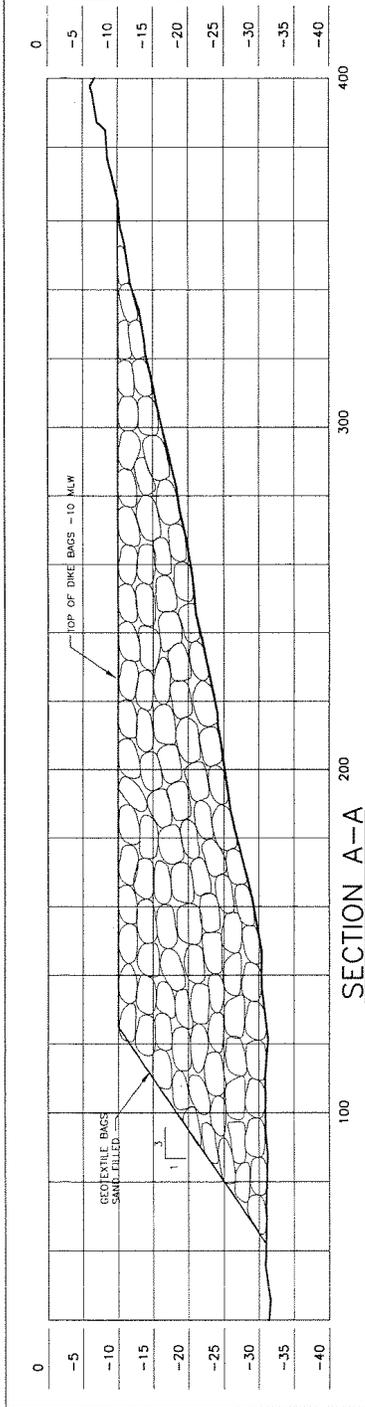


SCALE: 1" = 100'

NOTES:

1. TOTAL AFFECTED OPEN WATER AREA = .58 ACRES.
2. TOTAL CUBIC YARDS OF GEOTEXTILE BAGS (FILLED WITH SAND) = 5,000.
3. MEAN HIGH WATER LEVEL = 4.0'
MEAN LOW WATER LEVEL = 0.2'
4. GEOTEXTILE BAGS SHALL BE 3 C.Y. (APPROXIMATELY) WEIGHING 10,000 LBS. EACH.
5. RIVERWARD EDGE OF SOFT DIKE IS APPROXIMATELY 1200 FEET LANDWARD OF 45 FOOT CHANNEL DEPTH OF HUDSON RIVER.

AMERICAN SUGAR REFINING, INC.
 YONKERS, NEW YORK
 PROPOSED SUBMERGED
 SOFT DIKE STRUCTURE



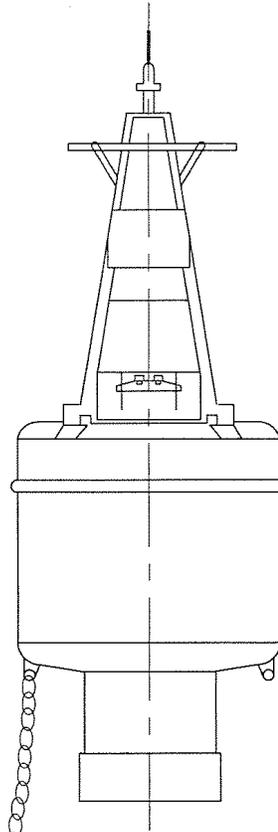
AMERICAN SUGAR REFINING, INC.
 YONKERS, NEW YORK
 PROPOSED SUBMERGED
 SOFT DIKE STRUCTURE

P&O FILE NO. 10-257-02 SHEET 3 OF 4 JUNE 25, 2004

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BUOY



BUOY DETAIL

N.T.S.

CONCRETE ANCHOR



AMERICAN SUGAR REFINING, INC.
YONKERS, NEW YORK
PROPOSED SUBMERGED
SOFT DIKE STRUCTURE

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