



US Army Corps  
of Engineers®  
New York District

# NEWS STATEMENT

June 2001

## Clearing the Record

The New York District Army Corps of Engineers (NYD) issues federal permits to private applicants to dredge their shipping berths, marinas, and other water related structures. The NYD also dredges to maintain a safe navigable depth in federal navigation channels within the New York/New Jersey Harbor area. Some of this dredged material is placed at the Historic Area Remediation Site (HARS), an ocean site designated for such placement by the Environmental Protection Agency (EPA).

Several of these actions have been the subject of many comments and statements received from the public. In particular, concerns have been raised about what dredged material is appropriate and acceptable for placement as Remediation Material at the HARS. Many of these comments indicate to us that the public has not received factual information about our process, or on our determination that these projects meet the requirements for HARS placement. In an effort to clarify some of this confusion, we are issuing this release to address several of the comments we have heard most often. We have indicated the comments below in bold, followed by our response.

Please realize that some of these explanations rely on scientific information, and thus on technical language that is necessary to fully understand our process. We thank you for the time you invest in reading this, as it will give you a better understanding of some of these complex issues.

### **Myth: Sediment placed at the HARS will impact the New Jersey shore**

**Fact:** Contrary to some popular images, dredged material is not a gelatinous, toxic substance that has the capacity to creep onto the shore or remain in the water column days after ocean placement. Once placed, the material forms mounds that cover the ocean floor at the HARS; this is illustrated by the fact that mounds of sediment at the HARS have not eroded away through the years. Plume tracking studies conducted by EPA in the early 1990's indicated that the small portion of dredged material that does not immediately drop to the bottom disperses to non-detectable levels within two hours of disposal, with dilutions ranging from 35,000:1 to 720,000:1. Dilution calculations performed by the Corps of Engineers for each project ensure that no single water quality criterion is exceeded inside or outside the HARS boundaries four hours after disposal, as required by federal regulations. Thus, the material does not pose any physical, chemical or health threat to beaches on the Jersey shore.

### **Myth: We are allowing the dumping of garbage/toxin-laced muck/hazardous waste**

**Fact:** The material proposed for placement at the HARS is neither medical waste, sewage sludge, garbage nor hazardous waste. These, of course, are prohibited from disposal in any open waters, including the ocean. The material placed at the HARS contains only sediments consisting of sand, silt and clay dredged from within New York Harbor.

Dredged material is not hazardous waste. Hazardous waste is a specifically defined substance which is subject to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA) and the Superfund Amendments and Reauthorization Act (SARA). Such material would never be considered by the Corps for placement at the HARS.



### **Myth: Placement of certain dredged material at the HARS violates the 1996 “Three Party Letter”**

**Fact:** In July of 1996, a letter signed by the Administrator of EPA, the Secretary of the Army and the Secretary of Transportation called for the closure of the Mud Dump Site and the designation of the Historic Area Remediation Site (HARS). This letter, referred to as the “Three Party Letter” or by some as the “Gore Agreement” because of Vice-President Gore’s involvement in this issue, stated that the HARS “will be remediated with uncontaminated dredged material (i.e., dredged material that meets current Category 1 standards and will not cause significant undesirable effects including through bioaccumulation\*).” Sediment which meets this standard is referred to as “Remediation Material”.

In accordance with federal regulations, our evaluation of ocean placement of dredged material utilizes a series of sensitive biological tests to determine whether proposed dredged sediment meets Category 1 Remediation Material criteria referred to above. All dredged sediment placed at the HARS has been evaluated using these tests and has been found suitable. Our determinations followed, rather than violated, the guidance specifically indicated in the Three Party Letter.

### **Myth: Public notification of HARS placement projects is either inadequate or incomplete.**

**Fact:** In accordance with federal regulation, all proposed dredging and HARS placement proposals are widely disseminated to the public. Most project mailing lists for New Jersey include congressmen, media outlets such as the Asbury Park Press and Star-Ledger, the NJ Department of Environmental Protection, and environmental organizations including Clean Ocean Action, the NY/NJ Baykeeper, American Littoral Society and the Baymen’s Protective Assn. Public notice comment periods normally expire after 30 days, but are often extended at the public’s request.

\*Bioaccumulation is the scientific term used to describe how plants and animals accumulate and retain chemicals in their tissue.

### **Myth: New criteria were issued since the Three Party Letter**

**Fact:** Comments have been made stating that the definition of Category 1 sediment was changed since the Three Party Letter, inferring that this new definition of clean would “threaten” the ocean. A table appeared in a release by a concerned environmental group listing their examples of new tissue levels to support their point.

Their table contained several inaccuracies. For example, their table listed “new” Category 1 levels for Total PCBs (400 ppb or “parts per billion”) and Total DDT (40 ppb). These numbers are not new; they were developed in the 1980’s and have been used in this particular program since the early 1990’s (note that since this table was released, an interim PCB number of 113 ppb is currently being used). Their Category 1 level for Total Dioxins (10 ppt or “parts per trillion”) is also incorrect: total dioxins cannot exceed a value of 5.5 ppt in order to be considered Remediation Material. Total PAH’s, pyrene and arsenic, which are also listed in their table, did not have numeric standards prior to 1996 – 1997. If anything, the use of these numbers provides additional safeguards that strengthen the commitments in the Three Party Letter to assure that Remediation Material does not cause significant undesirable effects through bioaccumulation.

### **Myth: Material proposed for the HARS is more contaminated than what’s already there**

**Fact:** Sediment proposed as Remediation Material for the HARS is analyzed using a series of biological tests, referred to as bioassays, to see whether there is a potential risk associated with its placement in the ocean. Bioassay results are used to determine whether material is eligible as Remediation Material (e.g. Category 1) or shows unacceptable toxicity or accumulation of contaminants which would make it ineligible as Remediation Material.

One bioassay consists of placing two different mud-dwelling species, represented by hundreds of organisms, inside the proposed dredged material for ten days, and seeing how many survive. This test indicates whether the material would have a potentially toxic effect on organisms at the HARS. A second bioassay consists of placing clams and worms, two organisms that not only live in the mud, but ingest it as a source of nutrition, in the



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proposed dredged material for 28 days. At the end of this time period, tissue is analyzed for various contaminants of concern to ascertain whether the organisms have accumulated the contaminants in their bodies. These results are compared to different sets of screening values, including ecological and human health guidance levels, to see whether they might pose a health risk.

EPA used the type of toxicity test described above, as well as tissue analyses from organisms at the site, to characterize sediments found in and around the Mud Dump Site. Using these tests, they found a geographic area that exhibited the potential for adverse ecological impacts, including toxic effects and dioxin and other contaminant bioaccumulation in worms. This material would not pass today's current standard for ocean placement of dredged material at the HARS, because of its potential for toxicity and/or bioaccumulation (e.g., Category 3). Although these individual results did not indicate the sediment represented an imminent hazard to living resources or human health, the collective evidence presented cause for concern. This area was further refined and eventually designated as the HARS.

Dredged sediment determined to be Category 1 is placed over HARS material exhibiting Category 2 and 3 characteristics. Using these projects as Remediation Material will mean that current HARS sediment shown to have a toxic, or other unacceptable, effect will be covered with material shown to have no unacceptable toxicity as well as no potential for significant bioaccumulation. This will remediate the HARS by reducing impacts at the site to acceptable levels, as stated in the Three Party Letter.

The bioassay tests described above are required by EPA Regulations to assess material for ocean placement; these tests are further explained in a joint EPA/Corps of Engineers national guidance manual known as the "Green Book". Category 1 determinations are not made using sediment chemistry numbers, as chemical data alone provide neither a measure of adverse biological effect nor an estimate of the potential for effects. Likewise we do not compare sediment chemistry and/or bioaccumulation numbers between material already at the HARS to material we propose to place at the HARS; this comparison will not tell you if contamination in the proposed placement material will cause an adverse impact. Biological tests are recognized in both the scientific community and the EPA Regulations as the best available tool to assess potential for undesirable effects associated with placement of material at the HARS.

### **Myth: Ocean Disposal has started up again at the Mud Dump Site**

**Fact:** The Three Party Letter did not prohibit placement of dredged material in the ocean. Although use of the Mud Dump for disposal of dredged material was terminated by EPA on Sept. 29, 1997, the Mud Dump and surrounding areas were re-designated as the HARS on that same date. The first barge loads of Remediation Material were placed several days later, and placement has continued since then.

The HARS area was established so that existing surface sediments which have the potential to cause significant adverse effects (e.g., Category 3 sediment) could be covered with cleaner sediments which meet the criteria of the Marine Protection Research and Sanctuaries Act and will not cause significant adverse effects (e.g., Category 1 sediment). The placement of Category 1 dredged sediment as Remediation Material was a critical aspect in the design of the HARS, and was recognized as such by the federal agencies and environmental groups that created the Three Party Letter.

Sediment from 10 different private and federal projects has been dredged and placed as Remediation Material in the ocean since closure of the Mud Dump and designation of the HARS. This represents a total of approximately 5,000,000 cubic yards of material. Current estimates indicate that a minimum of 40 million cubic yards is needed to fully remediate the HARS. During this period, a number of projects have failed to meet the standards used for Remediation Material or have not undergone HARS testing. These projects have either not been dredged or been disposed using other non-ocean alternatives, if available.



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In addition to our role in testing and evaluating potential Remediation Material for the HARS, the New York District Army Corps of Engineers performs many other projects designed to enhance and protect the environment. The Corps maintains several vessels in the New York/New Jersey Harbor to pick up floating debris before it hits the New Jersey shoreline. We perform major Superfund clean-ups for the EPA in New Jersey and environmental restoration programs for the Department of Defense. The Corps' current beach erosion control project in New Jersey is presently rebuilding 21 miles of New Jersey's shoreline. This is the largest shore protection project ever constructed in the United States. Currently, approximately 23 percent of the Corps' 2001 budget is devoted to enhancing and protecting our environment.

We hope we have given you enough factual information to allow you to objectively evaluate these important issues. For further information contact the New York District Dredged Material Management Section at 212-264-2021.