

APPENDIX E
Response to Comments

Per the Stipulation and Order of Settlement and Dismissal, 18 October 2007 (S&O), the Draft Silt Curtain Report was e-mailed to Plaintiffs, NJDEP and NYSDEC for comment on 23 April 2012. The Draft Report was circulated for a 21-day comment period.

Two comments received from the Plaintiffs were informational in nature and did not warrant revisions to the Draft Report. No other comments were received. The Report was finalized and a notice of availability of the Final Silt Curtain Pilot Study Report was added to the New York District website <http://www.nan.usace.army.mil/index.php>, under "Recent Postings" in August 2012.

Response to Comments

Comments are summarized below. The Plaintiffs emailed comments are included as Attachment 1.

Comment 1: The draft report states that “[g]iven the presence of a current eddy circulating within the SEC [South Elizabeth Channel], dredging as conducted in the SEC produced plumes that tended to travel up- or down-channel, staying within the confines of the SEC itself or extending toward the port bulkhead (at Page ii). Is this “current eddy” phenomenon unique to the South Elizabeth Channel or is it common throughout the Harbor area? My reason for asking is that it appears this hydrodynamic feature resulted in the plume remaining largely intact to a distance of 80m from the dredging operation, but diminishing considerably in spatial extent at 100m from the dredging operation (at page 9). Clarification on whether this same result would be expected in other parts of the Harbor would be useful.

Response 1: Discrete water current circulation patterns are very site-specific naturally occurring phenomena. Other eddies certainly exist in the harbor, at different location and at different times, depending upon local hydrodynamics (i.e. tides and currents).

Apart from the hydrodynamic eddies that likely exist at specific locations during specific conditions within the Harbor, the many years of far-field dredging-induced sediment plume studies performed by the New York District strongly demonstrate that these plumes dissipate quickly and are generally localized to the dredge location. These studies also confirm that since the greatest concentrations of dredging-induced sediment resuspension occurs lower in the water column and because suspended sediments naturally have negative buoyancy, dredging-induced sediment plumes tend to stay predominantly within the channel confines (USACE 2007, 2008, 2009, 2010, 2011, 2012a and 2012b). Therefore, it is reasonable to conclude that the same result would be expected in other parts of the Harbor with similar sediment type and hydrodynamics, regardless of the eddy feature.

Comment 2: As I am sure you were, I was extremely disappointed to understand that the manufacturer of the silt curtain indicated that the Type III silt curtain can be deployed in areas where considerable currents (up to 3 knots, 1.53 m/s) existed, where tidal action was present, and/or where the curtain was potentially subject to wind and wave action (at page 3 and 10) and yet it failed so miserably. As the draft report states, very little documentation of silt curtain guidance or performance exists in scientific literature. I believe it would be useful to have these results more widely distributed and request that the Corps please provide information on distribution of the final report, including to other agencies, publications, the manufacturer, etc. If there was no plan for further distribution, I urge the Corps to reconsider this decision, as many share the goal of completing dredging activities in a matter that is protective of the environment and we need to focus on efforts that will effectively achieve this goal – and the more information that is published on various techniques, the better.

Response 2: Per the S&O (p. 10), the final report will be provided to the Plaintiffs, U.S. Environmental Protection Agency, New Jersey Department of Environmental Protection, New York State Department of Environmental Conservation. The Corps shall publish a notice of availability on the New York District web site. The Corps has no objections to this report being distributed by these recipients. As is Corps practice regarding any technical analyses, studies or findings, any information contained in the Silt Curtain Report that is determined to be of value to executing or supporting its mission shall be distributed, accordingly.

References:

U.S. Army Corps of Engineers (USACE) NYD 2007: Environmental Assessment. Effects of the NY/NJ Harbor Deepening Project on the Remedial Investigation/Feasibility Study of the Newark Bay Study Area. Appendix 3: Suspended Sediment Plumes Associated with Navigation Dredging in the Arthur Kill Waterway, New Jersey. June 2007.

USACE NYD 2008. Technical Memo: Far Field Surveys of Suspended Sediment Plumes Associated with Harbor Deepening Dredging in Newark Bay. September 2008.

USACE NYD 2009. Technical Memo: Far Field Surveys of Suspended Sediment Plumes Associated with Harbor Deepening Dredging in Newark Bay. S-NB-1 Contract Area Survey # 2. June 2009.

USACE NYD 2010. Technical Memo: Far Field Surveys of Suspended Sediment Plumes Associated with Harbor Deepening Dredging in Newark Bay. S-E-1 Contract Area (Port Elizabeth Channel) Survey #1 & #2. February 2010.

USACE NYD 2011. Technical Memo: Far Field Surveys of Suspended Sediment Plumes Associated with Harbor Deepening Dredging in Upper Bay. S-AN-2 Contract Area (Anchorage Channel). August 2011.

USACE NYD 2012a, in preparation. Far Field Surveys of Suspended Sediment Plumes Associated with Harbor Deepening Dredging in Upper Bay. S-KVK-1 Contract Area (Kill Van Kull).

USACE NYD 2012b, in preparation. Technical Memo: Far Field Surveys of Suspended Sediment Plumes Associated with Harbor Deepening Dredging in Newark Bay. S-NB-2 Contract Area (South Elizabeth Channel).

Attachment 1

From: Debbie Mans [<mailto:debbie@nynjbaykeeper.org>]
Sent: Monday, May 14, 2012 3:54 PM
To: Yalen, Robert (USANYS); 'Larry Levine'; 'Steve Zhan'; 'Suzanne Dietrich'
Cc: 'Simon, Ellen B NAN02'; 'Wisemiller, Bryce W NAN02'; 'Sewell, Brad'
Subject: RE: NRDC v. US Army Corps of Engineers, 05 Civ. 762 (SAS) [email 1 of 6]

Rob

Thank you for this opportunity to comment on the draft of the Silt Curtain Pilot Study Report.

Recognizing the challenges implementing the silt curtain pilot in the NY/NJ Harbor, I wanted to thank all those involved in seeing the commitment through. I feel the information obtained in the pilot was useful and I had a couple of quick questions/comments.

1. The draft report states that "[g]iven the presence of a current eddy circulating within the SEC [South Elizabeth Channel], dredging as conducted in the SEC produced plumes that tended to travel up- or down-channel, staying within the confines of the SEC itself or extending toward the port bulkhead (at Page ii). Is this "current eddy" phenomenon unique to the South Elizabeth Channel or is it common throughout the Harbor area? My reason for asking is that it appears this hydrodynamic feature resulted in the plume remaining largely intact to a distance of 80m from the dredging operation, but diminishing considerably in spatial extent at 100m from the dredging operation (at page 9). To the extent this report is further distributed (see question below), clarification on whether this same result would be expected in other parts of the Harbor would be useful.

2. As I am sure you were, I was extremely disappointed to understand that the manufacturer of the silt curtain indicated that the Type III silt curtain can be deployed in areas where considerable currents (up to 3 knots, 1.53 m/s) existed, where tidal action was present, and/or where the curtain was potentially subject to wind and wave action (at page 3 and 10) and yet it failed so miserably. As the draft report states, very little documentation of silt curtain guidance or performance exists in scientific literature. I believe it would be useful to have these results more widely distributed and request that the Corps please provide information on distribution of the final report, including to other agencies, publications, the manufacturer, etc. If there was no plan for further distribution, I urge the Corps to reconsider this decision, as many share the goal of completing dredging activities in a matter that is protective of the environment and we need to focus on efforts that will effectively achieve this

goal - and the more information that is published on various techniques, the better.

Thanks, Debbie

Deborah A. Mans

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From: Yalen, Robert (USANYS) [<mailto:Robert.Yalen@usdoj.gov>]
Sent: Friday, April 20, 2012 3:54 PM
To: Debbie Mans (debbie@nynjbaykeeper.org); Larry Levine (llevine@nrdc.org);
Steve Zhan (smzahn@gw.dec.state.ny.us); Suzanne Dietrich
(Suzanne.Dietrick@dep.state.nj.us)
Cc: Simon, Ellen B NAN02; Wisemiller, Bryce W NAN02
Subject: NRDC v. US Army Corps of Engineers, 05 Civ. 762 (SAS) [email 1 of 6]

Pursuant to paragraph 13 of the Stipulation and Order of Settlement and Dismissal ("Stipulation") in NRDC v. US Army Corps of Engineers, 05 Civ. 762 (SAS), we are attaching a draft of the Silt Curtain Pilot Study Report referred to in paragraphs 10-13 of the Stipulation, for your comment.

Because of the size of this document, we are sending it in multiple parts attached to six separate emails, of which this is #1 of 6.

(For those of you I have not met before, I am Sarah Light's replacement both as Chief of SDNY's Environmental Protection Unit and as the attorney responsible for this matter.)

* Rob

Robert Yalen

Chief, Environmental Protection Unit

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Classification: UNCLASSIFIED

Caveats: NONE

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