



**US Army Corps
of Engineers®**
New York District

PUBLIC NOTICE

U.S. Army Corps of Engineers
New York District
ATTN: Harbor Programs Branch
26 Federal Plaza, Room 2119
New York, NY 10278-0090

In replying refer to:
Public Notice Number: FP65-S-AM-3B-2011
Issue Date: 21 June 2011
Expiration Date: 20 July 2011

NEW YORK AND NEW JERSEY HARBOR DEEPENING NEW YORK HARBOR, AMBROSE CHANNEL FEDERAL NAVIGATION PROJECT CONTRACT AREA S-AM-3B

TO WHOM IT MAY CONCERN:

Pursuant to Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972 (commonly referred to as the Ocean Dumping Act, 33 U.S.C. 1413), this Public Notice serves as the U.S. Army Corps of Engineers, (USACE or New York District) notification and request for comments relating to the potential placement of HARS suitable material obtained under the eleventh construction contract of the New York and New Jersey Harbor Deepening Project, as authorized by Section 101(a)(2) of the Water Resources Act of 2000, Public Law 106-541. This proposed placement will allow suitable sand dredged under the third construction contract in the Ambrose Channel to be placed at the Historic Area Remediation Site (HARS) - see below for further information.

ACTIVITY: Deepen the existing Ambrose Federal Navigation Channel, which is authorized as part of the New York & New Jersey Harbor Deepening project in Section 101 (a)(2) of the Water Resources Act of 2000, Public Law 106-541. The proposed action is to place up to 1.6 million cubic yards of sand that has been determined to be suitable Remediation Material at the HARS in the Atlantic Ocean, as part of the federal New York and New Jersey Harbor Deepening Project (HDP). Subject to continued coordination and approval, some of the dredged material may not go to the HARS, because it can be beneficially reused at other locations within the Port of New York and New Jersey.

LOCATION: Ambrose Federal Navigation Channel is located within the Port of New York and New Jersey. The federal channel extends from the Verrazano-Narrows Bridge with its confluence with the Anchorage Channel, southeasterly to deep water in the Atlantic Ocean, approximately 7 miles. The construction contract area encompasses the entire channel outside of the eastern 200 feet of the channel in New York, the construction area for S-AM-3A.

DESCRIPTION OF PLANNED ACTION:

This project involves deepening the existing federal 45-foot Ambrose Federal Navigation Channel to a navigable depth of 53 feet below mean low water (MLW), with up to an additional 2.0 feet allowable overdepth from the channel's confluence with the Anchorage Channel in the Upper New York Bay, to the 53-foot contour line in the Atlantic Ocean. The overall HDP will be constructed using 17 contracts (see Figure 1). The Ambrose Federal Navigation Channel portion of the HDP will be accomplished using four contracts. The action described herein will take place in the fourth of the four planned contract areas to be dredged within the channel – Contract Area S-AM-3B (see Figure 2).

Contract Area S-AM-3B

Contract Area S-AM-3B (Figure 2) contains sand that is to be dredged to a project depth of -53 feet below mean low water. To account for the inherent imprecision and variability in a dredging operation, the contractor is also paid for removing up to an additional 2.0 feet of material, below the required depth of -53 feet mean low water. Based on analyses of survey data from previous contracts, it is expected that the average depth that will be achieved will be -55.0 feet. Approximately 95 percent of the individual survey points will likely be between -53.5 feet and -55.0 feet below mean low water.

It is expected that a portion of the dredged sand will be beneficially used for the restoration of salt marsh islands at Yellow Bar, Black Wall and Rulers Bar in Jamaica Bay, New York with the balance of the material placed at the HARS as remediation material. The contract in this Public Notice is expected to begin about November 2011. The contract duration is approximately 12 months. The District has applied for a Water Quality Certificate (WQC) from the State of New Jersey in accordance with Section 401 of the Clean Water Act. If additional WQCs are required, they will be requested from the applicable state.

The U.S. Environmental Protection Agency (USEPA), Region 2 and the USACE, New York District have evaluated bathymetric surveys, sediment core logs and ocean current data from this contract area to determine whether the proposed dredged material meets the criteria for ocean placement without further 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 agencies' evaluation has shown that sands to be dredged from the Ambrose Federal Navigation Channel meet the requirements of 40 CFR 227.13(b)(1) and are suitable for placement at the HARS as remediation material without further testing.

The purpose of this Public Notice is to solicit comments regarding the proposed placement of these materials at the HARS. These comments, along with all available technical data/information, will form the basis of a determination of whether this proposed project is in the public interest. The HARS (see Figures 3 & 4), located in the Atlantic Ocean off the coast of New Jersey, is described later in this notice.

The proposed transportation of this dredged material for placement in ocean waters is being evaluated to determine that the proposed placement will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems or economic potentialities. The criteria established by the Regional Administrator, USEPA Region 2, pursuant to Section 102(a) of the Ocean Dumping Act will be applied. In addition, based upon an evaluation of the potential effect which the failure to utilize this ocean placement site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, an independent determination will also be made of the need to place the dredged material in ocean waters, considering other possible methods of disposal and other appropriate locations.

Any person who has an interest, or may be affected by the placement of this dredged material may request a public hearing. The request must be submitted in writing within the comment period of this notice and must clearly set forth the interest affected and the manner in which the interest may be affected by the proposed 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 placement has been 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) prepared pursuant to Section 7 of the Endangered Species Act (16 USC 1531). Based upon that review, and a review of the latest public listing of threatened and endangered species, it has been preliminarily determined that the proposed activity described 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.

The material proposed for HARS placement will not be placed within 0.27 nautical miles of any identified wrecks, indicated in the National Register of Historic Places. Other than shipwreck ruins, there are no known sites that are eligible for, or included in, the Federal Register within the dredged material placement area. No known archaeological, scientific, pre-historical or historical data is expected to be lost by the anticipated placement of dredged material.

The USACE New York District continues to work closely with the following Federal and State 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, Activities New York
- New Jersey Department of Environmental Protection
- New York State Department of Environmental Conservation
- New York State Department of State

ENVIRONMENTAL DOCUMENTATION:

The environmental impacts of the New York and New Jersey Harbor Deepening Project have been evaluated in National Environmental Policy Act (NEPA) and regulatory documents including: (1) the Final Feasibility Report and Final Environmental Impact Statement dated December 1999; (2) the Federal Record-of-Decision executed in June 2002; (3) the Final Limited Reevaluation Report and Final Environmental Assessment/Finding of No Significant Impact dated January 2004; and (4) the Final Environmental Assessment of the NY & NJ Harbor Deepening Project on the Remedial Investigation/Feasibility Study of the Newark Bay Study Area, June 2007.

Copies of these documents can be viewed and/or obtained by contacting Mr. Bryce Wisemiller, Project Manager for the New York and New Jersey Harbor Deepening Project, at telephone number (917) 790-8307. Email: bryce.w.wisemiller@usace.army.mil

PLACEMENT SITES FOR HARS-SUITABLE DREDGED MATERIAL

HISTORIC AREA REMEDIATION SITE (HARS):

In 1972, Congress enacted the Marine Protection Research and Sanctuaries Act (MPRSA) to address and control the dumping of materials into ocean waters. Title I of the Act authorized the US Environmental Protection Agency and the US Army Corps of Engineers to regulate dumping in ocean waters. USEPA and USACE share responsibility for MPRSA permitting and ocean disposal site management. USEPA regulations implementing MPRSA are 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, 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 redesignated as the HARS (Figures 3 & 4) 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 is to be managed to reduce impacts of historic 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 surveys performed and the

conditions in the HARS Study Area may be found in the Supplemental Environmental Impact Statement (USEPA, 1997).

The HARS designation identifies an area in and around the former MDS that has exhibited the potential for adverse ecological impacts. The HARS will be remediated with dredged material that shall be selected so as to ensure it 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 HARS Remediation" or "HARS Remediation Material".

As of the end of May 2011, dredged materials from seventy-six different completed and ongoing private and federal dredging projects in the Port of New York and New Jersey have been dredged and placed as Remediation Material in the ocean at the HARS since the closure of the Mud Dump Site and designation of the HARS in 1997. This represents approximately 46,892,000 cubic yards of Remediation Material.

The HARS, which includes the 2.2 square nautical mile area of the former 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 former 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 undertake 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 a cover of remediation material at least 1 meter thick. The PRA encompasses an area of degraded sediments as material 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.

To improve management and monitoring of placement activities at the HARS, electronic monitoring equipment is used on-board vessels carrying Remediation Material to the HARS. This equipment records vessel positions and scow draft 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 USEPA, Region 2, Dredged Material Management Team Leader, at telephone number (212) 637-3797.

ALTERNATIVES TO HARS PLACEMENT:

The USACE New York District has evaluated the regional practicability of potential alternatives for dredged material disposal in a 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 sites in the region with material that would or would not be considered suitable for HARS remediation. The Plan anticipates that a considerable volume of HARS-suitable material will be placed at alternative beneficial use sites currently under development. Use of these sites results in the restoration and creation of wetland marsh island habitat (for fish, shellfish, and birds at Yellow Bar, Black Wall, and Rulers Bar in Jamaica Bay), landfill and quarry remediation, the provision of construction material, and beach nourishment. As alternative sites are developed and permitted, they may be evaluated and designated for use for the remaining dredged material from the NY & NJ Harbor Deepening Project. As specific alternative sites and their applicable testing/regulatory criteria are subject to change, future Public Notices on the remaining NY & NJ Harbor Deepening Project contracts may be issued as evaluations and testing of the material to be dredged are performed and as other alternative placement sites are developed.

Based upon the lowest responsible bid received for the completed Port Jersey PJ-3 contract, the incremental cost for using an upland placement site as an alternative site to the HARS for silt materials was \$65.00 a cubic yard as compared to \$5.50 for placement of material at the HARS. This is an increase of \$59.50 per cubic yard over the cost of placing the material at the HARS. The additional costs are to the United States and the Port Authority of New York and New Jersey. These costs do not reflect the differential cost of using HARS suitable material for wetland restoration.

The District will continue to evaluate all reasonable and beneficial alternatives, as practicable, that may become available during the advertisement and post- advertisement periods of the contract.

Conclusion

The USACE, New York District and the USEPA, Region 2 have determined that the material to be dredged meet the criteria for ocean placement as described in 40 CFR parts 227.6 and 227.27, and in USEPA, Region 2/USACE, New York District guidance. The material is also suitable for placement at the HARS as Remediation Material as described at 40 CFR Part 228.15.

Placement of this material at the HARS would 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 at the HARS with this project material, surface

dwelling organisms will be exposed to sediments exhibiting Category 1 qualities, which will ameliorate the existing sediment conditions.

Please contact Mr. Bryce Wisemiller, the NY & NJ Harbor Deepening Project Manager (FAX 212- 264-2924) should you have any questions regarding this Public Notice or the NY & NJ Harbor Deepening Project in general.

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

We request 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.

A handwritten signature in dark ink, reading "Lisa A. Baron", followed by a long horizontal flourish line.

Lisa Baron

Chief, Harbor Programs Branch

Enclosures

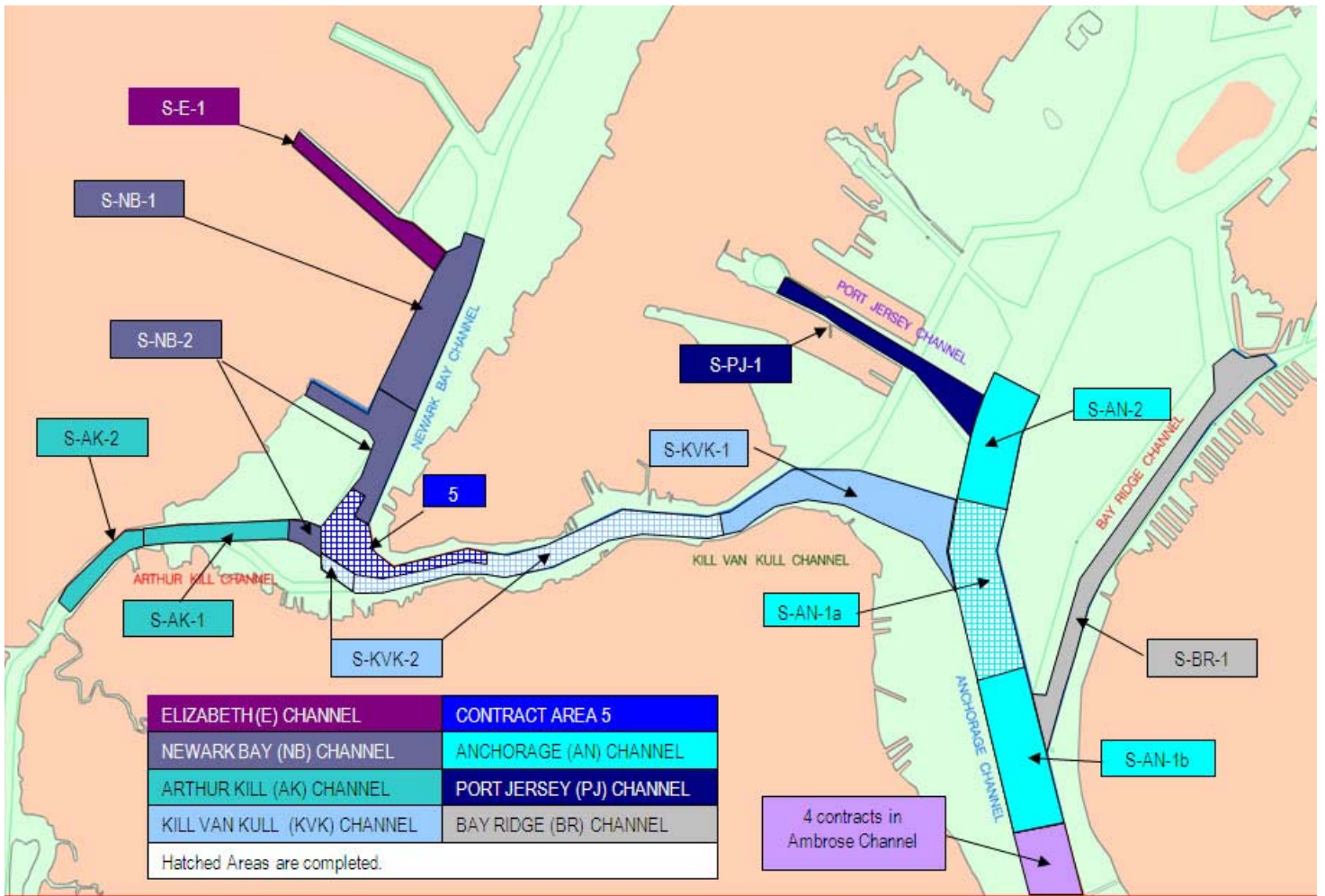
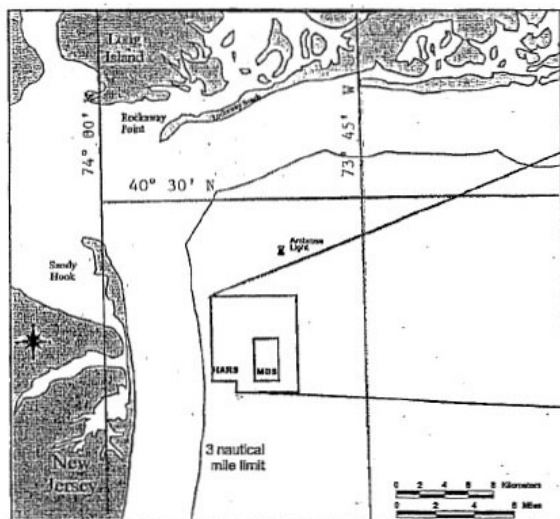


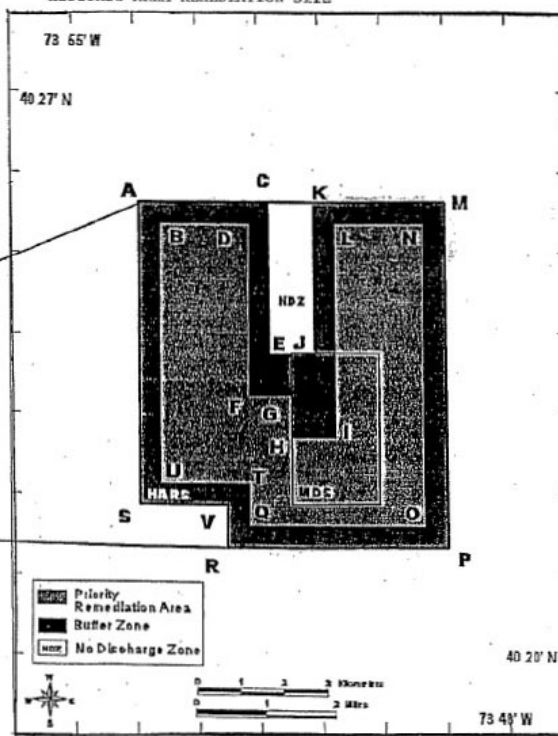
Figure 1 - General Map of NY & NJ Harbor Deepening Contract Areas



HISTORIC AREA REMEDIATION SITE LOCATION MAP

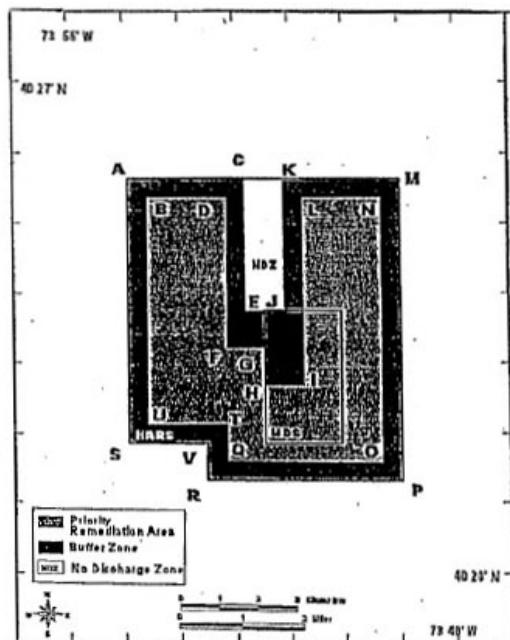


LOCATION OF PRIMARY REMEDIATION AREA WITHIN THE HISTORIC AREA REMEDIATION SITE



00900 ATT. A-2

SHEET OF



00900 ATT. A-3

Priority Remediation Area (PRA): 9.0 square nautical mile area to be remediated with at least one meter of Remediation Material, bounded by the following 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

* — DMS = Degrees, Minutes, Seconds

** — DDS = Degrees, Decimal Minutes

SHEET OF