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JOINT EPA/US ARMY CORPS OF ENGINEERS

NEW ENGLAND DISTRICT

PUBLIC HEARING before the Army Corps of Engineers and the United States Environmental Protection Agency, New England Region, held at SUNY-Stony Brook, Charles B. Wang Asian-American Center, Stony Brook, New York, December 10, 2003, commencing at 4:00 p.m. concerning:

DRAFT ENVIRONMENTAL IMPACT STATEMENT DESIGNATION OF DREDGED MATERIAL DISPOSAL SITES IN CENTRAL AND WESTERN LONG ISLAND SOUND, CONNECTICUT AND NEW YORK

BEFORE:

Larry Rosenberg, as Moderator

Melville P. Cote, Jr., EPA, Hearing Officer

Mark Habel, Project Manager, US Army Corps of Engineers

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I N D E X

I N D E X (continued)

SUBMITTED WRITTEN STATEMENTS FOR THE RECORD

P R O C E E D I N G S

MODERATOR ROSENBERG: Good afternoon. Good afternoon. I am Larry Rosenberg. I am the Chief of Public Affairs for the United States Army Corps of Engineers in New England.

I would like to welcome you to this public hearing held in conjunction with the government's release of the Draft Environmental Impact Statement for the designation of dredged material disposal sites in Central and Western Long Island Sound, Connecticut and New York.

This hearing is being held in accordance with the National Environmental Policy Act for the sole purpose of listening to you. As a direct result of the comments and concerns raised by the public during our previously held hearings on September 30th in Stony Brook and on October 1st and November 13th in Stamford, Connecticut, the EPA and the Corps are holding this additional hearing and have extended the public comment period until December 15th.

Before we begin, I would like to thank you for getting involved in this environmental

review process. And just a clarification. Despite what you may have been reading in the newspapers, neither the EPA, nor the United States Army Corps of Engineers, have planned or will plan in the future to dispose of any unsuitable materials in any of the sites that are being looked at under this NEPA, National Environmental Policy Act, Environmental Impact Statement.

Furthermore, I should point out that the government has made no final decision regarding the final outcome of this very public process.

You see, we're here to listen to your comments, to understand your concerns, and to provide you an opportunity to appear on the record, should you care to do so, prior to any decisions are made. This hearing is yours.

Our Hearing Officer today is Mr. Mel Cote, Manager of the Water Quality Unit at the Office of Ecosystem Protection for the Environmental Protection Agency New England Region that is headquartered in Boston, Massachusetts.

Other federal representatives are Mr. Mark Habel, our Project Manager, from the United States Army Corps of Engineers. From the

Environmental Protection Agency, Ms. Jean Brochi, EPA project manager for this EIS; and Ann Rodney, who is working all the communication and community relations issues for the EPA; and from the Corps: Susan Holtham, our EIS Manager working with NEPA processes; and of course, the staff of the Public Affairs Office, who you met when you entered the facility.

Our agenda today is following this introduction, Mel Cote will address the hearing. He will be followed by the Corps of Engineers' Project Manager, Mark Habel, who will provide an overview of the Corps' role and discuss the recommended dredged material disposal with the focus on the purpose and the need for the designation.

Following that -- following Mark, we will divert from our agenda and our hearing protocol to allow Congressman Bishop an opportunity to make his statement for the record and accommodate his very busy schedule. I will then introduce Dr. Carlton Hunt from Battelle, a contractor for the United States Army Corps of Engineers; and Dr. Drew Carey, from Coastal Vision,

who will make a 30-minute-or-so presentation on the EIS processes and the recommendations and how they were reached. I will then open this hearing to public comment utilizing those hearing protocols that are available outside.

Should you need copies of the Federal Register Notice, the hearing protocols, or any other pertinent information, all that is available at the registration tables and at the handout tables.

Before we begin, I would like to remind you of the importance of filling out those cards that are available. These cards serve two purposes.

First, they let me know that you're interested in this project and you want to be kept informed.

Second, they provide me a list of those who want to speak today. If you did not complete a card, but wish to speak or receive future information, one will be provided at the registration desk.

One additional comment. We are here to receive your comments, not to enter into any

discussion of those comments, or to reach any conclusion. Any questions you have should be directed to the record and not to the individuals on this panel.

Thank you very much.

Ladies and gentlemen, Mr. Mel Cote.

MR. COTE: Thanks, Larry.

Good afternoon, everyone. As Larry mentioned, my name is Mel Cote. I'm the manager of the Water Quality Unit in the U.S. Environmental Protection Agency's New England Regional Office. Prior to taking this position, I spent nine years as the Region's Long Island Sound Study and Connecticut's nonpoint source program coordinator. My family is from Connecticut. I was born in Middletown, and I spent a lot of time at the beach and on the waters of Long Island Sound. So I have both personal and professional knowledge as well as a real affinity for the Sound and this region.

Thanks for coming to this public hearing. Whether it's to voice support for or concerns about the federal action proposed in this Draft EIS, or simply to learn more about the project, we welcome your participation.

EPA published a Federal Register notice and issued a press release on September 12th announcing the availability of the Draft EIS for public comment until October 27th. We posted the Draft EIS on our website and mailed notices and copies of the Draft EIS and supporting documents to a large mailing list of agencies, organizations and individuals. We held public hearings on September 30th, here in Stony Brook; and on October 1st in Stamford, Connecticut, to present information on the Draft EIS and to solicit oral and written comments. Subsequent to that, and in response to public comment, we extended public comment twice, initially to November 17th and then to December 15th. We held another public hearing in Stamford on November 13th and scheduled this hearing in Stony Brook. This is consistent with our ongoing efforts throughout the EIS process to present the public with ample opportunity to get information about the project and to give us their feedback. That's why we are here today to listen to and report any comments you may have on the Draft EIS.

EPA and the U.S. Army Corps of

Engineers regulate or jointly regulate dredged material disposal under Federal authorities provided by Section 404 of the Clean Water Act and Section 103 of the Marine Protection, Research, and Sanctuaries Act, which is also known as the Ocean Dumping Act. In administering these programs, we work closely with other federal resource management agencies, like the National Marine Fisheries Service and U.S. Fish and Wildlife Service and state environmental agencies to ensure proper coordination and consistency with statutory and regulatory requirements and environmental standards.

Since 1980, the EPA and the Corps have been applying the sediment testing requirements of the Ocean Dumping Act to all federal projects and to private projects generating 25,000 cubic yards or more of dredged material. Dredged material that meets these criteria and is determined to be suitable for ocean disposal may be disposed at one of the four sites that were evaluated and chosen as disposal sites pursuant to programmatic and site specific Environmental Impact Statements by the Corps in 1982 and 1991. These sites are known as

the Western Long Island Sound, Central Long Island Sound, Cornfield Shoals and New London disposal sites.

In 1992, Congress added a new provision to the Ocean Dumping Act that for the first time established a time limit on the availability of Corps selected sites for disposal activity. The provision allows the selected site to be used for a five-year period beginning with the first disposal activity after the effective date of the provision, which was October 31st, 1992.

It also provides for an additional five-year period beginning with the first disposal act commencing after completion of the first five-year period.

Use of the site can, however, be extended if the site is designated by EPA for long-term use. Thus, the Corps can select disposal sites only for short-term limited use; whereas, Congress authorized EPA to undertake long-term site designations subject to ongoing monitoring requirements to ensure that the sites remain environmentally sound.

Periodic dredging and, therefore,

dredged material disposal are essential for ensuring safe navigation and facilitating marine commerce. EPA believes its preferable from an environmental perspective to dispose of dredged material in only a few discrete locations so that it can be more easily managed and monitored to reduce potential adverse impacts on the marine environment. With the continuing need for dredged material disposal sites and the impending expiration of the short-term site selections by the Corps for the four current dredged material disposal sites in the Sound, the Corps was faced with the prospect of having to continue to select new disposal sites that could only be used for a maximum of two five-year periods. In the long-term, this could result in the proliferation of disposal sites throughout the Sound. And that's why we're here today.

In 1998, EPA and the Corps agreed to conduct a formal site designation process following the criteria established in the Ocean Dumping Act. We also agreed that consistent with past practice in designating dredged material disposal sites, we would follow EPA's Statement of Policy for

Voluntary Preparation of National Environmental Policy Act, or NEPA, documents, and would prepare an Environmental Impact Statement to evaluate different dredged material disposal options. EPA and the Corps have tried to prepare this Draft EIS to be consistent with EPA's NEPA-implementing regulations, as well as those promulgated by the Council on Environmental Quality for additional guidance. We began this effort in 1999, but were slowed by both the technical complexities and financial constraints associated with large-scale, multiple-site project.

In March 2002, facing the prospect of losing the use of the Corps' selected Central Long Island Sound disposal site in February of 2004, when the second of two five-year periods of use of that site expires, EPA and the Corps announced their intent to develop the EIS in two phases: Western and Central Long Island Sound first followed by the Eastern Sound, once the site or sites had been designated in the western and central regions. This approach would yield a schedule to meet the important public need to consider disposal sites in this region more

expeditiously without compromising the continued objectivity of the decision-making process for each region of the Sound.

Although EPA is the agency authorized by the Ocean Dumping Act to designate dredged material disposal sites, the Corps is participating in the development of the EIS as a cooperating agency, because it has knowledge concerning the needs of the dredging program, as well as technical expertise in assessing the environmental effects of dredging and disposal.

As a result of the 1998 agreement between EPA and the Corps, the Corps is also providing technical and financial support in the development of the EIS, but all final decisions regarding any site designations will be made by the EPA.

To take advantage of that expertise held by other entities and to ensure compliance with all applicable legal requirements, EPA also is closely coordinating this effort with other federal agencies, including the National Marine Fisheries Service and U.S. Fish and Wildlife Service, Indian Tribal governments, state environmental and coastal

zone management agencies and local governments, some of whom are participating as cooperating agencies. EPA and the Corps also have conducted extensive public participation activities, including numerous workshops, informational meetings to explain the process and disseminate technical findings and to solicit feedback from the public to help guide the process.

We are here today to present information on the Draft EIS that evaluates disposal options for the Western and Central regions of Long Island Sound and to solicit feedback on this document and the federal action it proposes in the form of oral or written comments. We encourage and welcome your oral and written comments, but we will not be responding to them here. These comments will be given equal consideration upon completion of the public comment period for the purposes of finalizing the EIS and issuing final rulemaking. The final EIS will include responses to all comments that we receive. For accuracy of the record, the written comments should be sent to Ann Rodney at the EPA New England Regional Office, and they will be accepted until

the close of business next Monday, December 15th.

Thank you again for your participation in this public hearing and for your interest in the issue of dredged material management in Long Island Sound.

MODERATOR ROSENBERG: Ladies and gentlemen, Mr. Mark Habel.

MR. HABEL: Good afternoon. As Larry stated, my name is Mark Habel, and I'm the Project Manager for the study for the Corps New England District.

In early 1998, EPA and the Corps began their study of the need for and acceptability of designating ocean disposal sites for dredged material in Long Island Sound. An early part of this effort involved examining the present and long-term need for dredging from the ports and harbors of the Sound above Connecticut and New York.

There are more than 50 Federal navigation projects and hundreds of non-Federal public and private navigation-dependent facilities on the Sound that require periodic dredging to maintain safe navigable depth. Vessels from large

cargo carriers to small fishing and recreational craft depend on adequate channel depths to operate.

Some of the dredged material from these harbors is clean sand, suitable for use as nourishment of area beaches when available.

However, the majority of all material dredged from the Sound's harbors has for many decades been placed at open water sites in the Sound. Prior to the 1980s, there were as many as 20 sites that periodically received dredged material. Since that time, only four sites have been in use, and on average receive about 1 million cubic yards of suitable dredged material annually.

Some of this material, or all of this material, must undergo a rigorous series of physical, chemical and biological testing to prove its suitability for placement in the Sound. No material may be placed in the Sound without first demonstrating that it is nontoxic and poses no threat to the human and natural environment.

An investigation into the economic importance of navigation-dependent industries to the Long Island Sound region found that these industries contribute more than 52,000 jobs and

over $5.5 billion annually to the economy of the area. Dredging is the key to the continued health of this sector of the Connecticut and New York economies.

If you have not already had an opportunity to do so, please take time to examine the poster displays located in the lobby. One of these shows the locations of the several "dredging centers" located around the Sound. It is these ports and harbors that generate the economic benefit of navigation and the region's dredged material.

This study focused on consideration of impact on the natural and human environment, including both natural resources and economics. It was concluded that the capacity of non-in-water disposal alternatives cannot meet the long-term dredged material disposal needs of the Central and Western Long Island Sound region. While individual projects must assess nonopen-water alternatives on a case-by-case basis, dredging of one or more open water -- designation of one or more open water dredged material disposal sites in Long Island Sound is necessary to meet the long-term regional

needs of navigation in the Sound.

Larry.

MODERATOR ROSENBERG: Thank you, Mark. As I said, at this time we are going to divert from the agenda and to accommodate a very busy schedule on the part of Congressman Bishop.

I would like to remind you that we will be using our protocols for receiving testimony, and we are asking all to remain within the three-minute window. The traffic signal in front of me will indicate the following: The green light will come on indicating that there are two minutes remaining; the amber light indicates one minute left; then, of course, the red light indicates that the time has expired.

The first individual to give testimony here tonight is Congressman Timothy Bishop.

(Applause.)

CONGRESSMAN TIMOTHY BISHOP: Thank you very much, and thank you for indulging my schedule. I should tell you at the outset that I have more than three minutes so I hope that we can go to that as well.

I would like to thank the Environmental

Protection Agency and the Army Corps of Engineers for holding this additional public hearing.

At the request of my office and the community, the EPA not only extended the comment deadline on its Draft EIS from November 17th to December 15th, but they also agreed to hold a second public hearing on Long Island. And, again, I'm very grateful that you were willing to do so and accommodate.

Of course, it comes as a surprise to money people that this is the second public hearing and not the first. Very few people knew about the first hearing, which was held here on

September 30th. In fact, throughout this process, I have been concerned by the lack of information to the community. I intend to work with community leaders and government officials to make sure of the improved community involvement as this process moves forward.

I would like to thank members of the community for coming to this hearing. It is very important for the EPA to understand that Long Island does care about the quality of the Sound so I'm glad that you are here to let your voices be

heard and let the EPA know what you think about this plan.

I would particularly like to thank the fishing community for joining us today, some of whom are here, or will be coming all the way from Montauk. The fact that so many have been willing to travel so far for a few moments of your attention shows how important this issue is to our community.

I am here to express my serious concerns with the Draft Environmental Impact Statement to designate permanent dredge disposal sites in Central and Western Long Island Sound. We simply cannot afford pollution. After taking so many steps forward to protect the Long Island Sound over the past several years, this plan to dump tons of contaminated dredge waste is a giant move back.

At the heart of this plan is an effort to dump approximately 20 million cubic yards of dredge spoil into the Sound over the next 20 years by designating permanent dump sites for dredged spoil. This waste would primarily come from large dredging projects in industrial Connecticut harbors.

I understand that each dredging project will be assessed on its own merits and that each batch of material will be tested. But what this plan essentially means is that our community will spend the next 20 years on the defensive. Rather than working to improve the Long Island Sound, we will spend the next 20 years locked in a series of pitched defensive battles working to project -- working project by project to keep the most hazardous material out of our water.

It should not be the goal of the EPA to minimize harm. Instead, it should be the goal of the EPA to eliminate the long-term disposal of dredged material into Long Island Sound. As many people here can attest, the Draft Environmental Impact Statement is a daunting document. However, a few things stuck out for me.

One is that the EPA's own data shows that at historical dumping sites in the Sound there is far greater accumulation of harmful contaminants like mercury, copper, chromium and lead that are found on average in the Sound. And while we can work project by project to try to minimize environmental damage, I am extremely concerned

about the effects of bioaccumulation. Considering that we still don't know all of the causes behind the lobster die-off, when it comes to bioaccumulation, we never know what will break the camel's back when it comes to the water quality of the Sound.

I am also concerned that this study seems to be a very long justification for a conclusion that was reached well in advance. It is almost as if this process were approached much like Sherlock Holmes would have approached it, eliminating every possibility until the only remaining conclusion was to dump in the Sound. Specifically, there seems to have been very little real consideration given to disposal of dredged spoil at open water or ocean sites outside of the Long Island Sound. There also seems to have been little consideration of land disposal sites.

I understand that one of the major considerations is cost. However, there will be a major cost to our community if we allow massive dumping into the Sound. The cost to our fishermen has already been catastrophic. Listen to the fishermen and the lobstermen. They will tell you

their personal stories about the impact of previous dredging projects may have had on the Sound.

We should all recognize that one of the largest industries of this area is tourism. Our tourism is dependent on beaches and the quality of the environment to attract people to our area. So when we talk about cost, we need to consider those costs. We also need to measure the loss to our heritage. Fishing is not just another industry.

It is vital to Long Island's character. And when we pollute our water, and we have lobsters with shell rot, we lose something far greater than money. We lose a vital part of Long Island's history. And believe me, when that's gone, it's never coming back.

We need to go back to the drawing board and consider long-term alternatives, other than massive dumping into the Long Island Sound. As a member of the House Subcommittee on Water Resources and the Environment, I am willing to play any role that I can to look at alternatives and protect the Sound. I understand that these dredging projects need to go forward, and Long Island certainly benefits from dredging; however, I cannot sit idly

by and allow this process to move forward unchecked.

I hope that everyone here continues to stay involved and make your voices heard, because we need people to understand how much we care about the Sound and that we will continue to fight, project by project if need be, because the Long Island Sound is in our blood, and we will do whatever we can to protect it.

Thank you very much for your time. MODERATOR ROSENBERG: Thank you sir. (Applause.)

MODERATOR ROSENBERG: Ladies and gentlemen, we will be going back to the agenda. I would like to introduce Dr. Carlton Hunt and Dr. Drew Carey, who will give a -- provide an overview of the EIS process, present the findings and review the proposed preferred alternative and talk about the next step.

Dr. Hunt.

DR. HUNT: Thank you, Larry. And thank you all for turning out today to hear and present your input to this EIS process.

We would like to provide to you four

basic themes in our presentation today: The first is the overview of the process of the EIS; the second is to present findings in summary format of the process that we've gone through; to review the proposed preferred alternatives; and lastly to convey very quickly the next steps.

As was indicated, a decision was taken in 1998 to enter into this process, and notice of intents were given. Scoping meetings were held to determine what exactly needed to be looked at in order to complete this process. That was a precursor to the actual writing of the Draft EIS, and the proposed rule is before you. In the

interim for that, a number of things took place, to include data collection within the environment, major literature reviews to obtain what information is available on the Sound. That information was pulled together in the EIS that is put before you.

We're in a public comment period that has been extended. Once the comments are in, they will be evaluated, responded to, and all changes to the EIS, as necessary and deemed appropriate, by the agencies will be made. Then a final EIS will be provided to the community along with the final

rule, and there will be a 30-day comment period that follows on that particular filing of the EIS; and then at that point the agencies will enter into their final decision.

What I'm going to do is turn the podium over to Dr. Carey to talk a bit about the history of what went on between '98 and roughly 2002, and then I'll pick up the presentation again.

DR. CAREY: Thank you, Carlton.

Can everyone hear me.

AUDIENCE PARTICIPANTS: Yes.

DR. CAREY: What I'm going to do is give you essentially the first phase of the EIS process where we essentially reached a number of initial conclusions, and then the second phase will be summarized by Carlton.

I'm going to cover three primary points. These all really occurred in parallel. I'm going to present them sequentially.

First is how the EIS was prepared in cooperation with federal and state agencies. I'll also describe the public involvement aspects of the project. I recognize a number of people here, who have been involved in that process throughout, and

then I'm going to very briefly summarize the first phase of studies that occurred throughout Long Island Sound to inform this project. Those studies took quite a few years. We're really at the culmination here. So that large document that you're confronting is a result of a lot of effort from state and federal agencies, public involvement, and then a series of scientific and social scientific studies.

As Mel and Mark mentioned, this was really initiated by a Notice of Intent to prepare the EIS in 1999. At that time, it was determined that it was necessary to prepare an EIS to determine whether it was reasonable, whether it was a potential designation for a -- one or more open water dredged material sites within the Sound.

That action was taken in cooperation with the Corps of Engineers. So the EPA and the Corps really initiated this project, and right from the outset they sought to engage other cooperating agencies, other federal agencies and the primary state agencies in this region.

I want to go through that in a little bit of detail. Essentially, from the outset, we

formed a group, representatives from different federal agencies and the local state agencies, and as each phase of the EIS progressed, we discussed early on information that they may have, how they could contribute to that process, and that helped to define the path that was taken.

This is a fairly unique situation here in Long Island Sound, because there is a very long history of disposal of dredged material in the Sound, and a great deal is known about that; and a lot of that information is actually contained in studies that the various agencies have done. So one of the first things we did was to investigate the history of disposal in the Sound, gather information from the relevant agencies, find out what they could inform the process about, and quite a large amount of information was pulled together.

We then discussed what process should occur in the site designation. It may seem like the laws and regulations defined very tightly how this process occurs, but it's actually tailored to each region and each area when the process happens. So the federal agencies and later the public got involved in defining that process.

A very important point in the beginning of the process is the initiation of what is called scoping. There were a series of meetings held. Initially, the federal and state agencies discussed this, and then we had public meetings, but that's really to determine what are the concerns; what are the issues; what kinds of studies should be conducted; where do we already have data; where do we have extensive data; and where are there areas where it doesn't look like we really have enough data to answer the questions that are being raised.

Another very critical step is determining what's really the physical or regional scope that you're going to look to potentially designate a site. This is called the Zone of Siting Feasibility. That's a very important step. It was taken early in the process, both in consultation with the agencies and in the public involvement process. We will get a little bit more detail about that zone as we move on.

Another point was to determine what kinds of alternatives there might be to designating an open water disposal site; what other kinds of alternatives may be out there. A tremendous amount

of work has been done in the New York/New Jersey area on investigating alternatives, or methods of dealing with disposed sediments, whether they are dredged out of harbors, whether they are contaminated, whether they are relatively clean,
and there is a lot of effort that has been conducted, and that material was determined to be useful for review in looking at this situation.

Once the studies were defined and conducted, as the results came back, we frequently held meetings, first again with the agencies and later with the public, to discuss the results of that data collection; and then as it moved on, as we began to go through that very -- really a formal process of selection of potential alternatives, we held a screening process with those agencies. We then reviewed that screening process with the public.

Finally, there was a determination of what the preferred alternatives would be, what the recommendation would be, and that again was held in consultation with the cooperating agencies.

I'll talk a little bit more about the specifics of how the public involvement worked,

understanding that this was happening in synchrony with the agency involvement. There were public scoping meetings in June of 1999. One was held here on Long Island, a couple others in Connecticut. That was an opportunity for the public to really openly comment about what concerns or issues they may have, to learn a little bit more about what the process might be, raise really any concerns they had at that time.

Very soon after that, in October of the same year, we initiated some public workshops, and this was an opportunity to get a little bit more into the detail of how the process would occur. So as we began to arrive at an understanding of how we were going to move forward, that information was shared through a series of public workshops. In some cases, we tried to elicit responses or expectations from those groups in sort of breakout groups during those workshops, look at how we were going to do the screening of the sites, presented data throughout the next couple of years. We also decided it would be helpful to have a more focused group, essentially a volunteer working group that was really open to anyone who was sufficiently

interested to attend the meetings, but it was primarily focused on the marine industry, the fishing industry, environmental groups, state agencies, local townsfolks, who were particularly focused or interested in the knowledge of the process. And that working group allowed us to have a little bit more focused discussive context to talk about issues in more detail and get some response to some of the results we had.

Subsequent to that first set of public workshops, another was held in April of 2000 to talk about some of the results of the studies, and you'll see there was a series of these working group meetings. This was the smaller volunteer group. Again, the initial one was in 2000 as results began to come in, and the site screening became more important, that group met several times in 2002, and most recently in September of this year.

I'm going to describe, and again very briefly, an overview of how the studies were conducted, what was the kind of logic behind them, and what kinds of things that we did.

First of all, it was very clear from

the outset that the timetable that we were on required us to get out early, collect critical data that is very difficult to collect in the winter, some of which must be collected in the spring or summer when certain organisms are spawning or available for collection. So we defined a field data collection program really from the outset that allowed us well before the site screening process to gather information throughout the entire Sound. This was critical, because if we had waited until after the site screening, this meeting would be several years out from now. We would still be trying to collect more data.

We also conducted a series of studies of upland alternatives, what kinds of locations were available throughout the region. I'll talk about this in a little bit more detail. That was also paralleled by a view of available treatment technologies. As I mentioned there is a lot of money that has been allocated for study of this in the New York/New Jersey region, and there is a lot of data available on the nature of technologies, what might be applicable, and that was reviewed and investigated in this study.

Two very important components in addition to going out and looking at the environment are to determine what is really the need for dredging in the region; where does it occur; what's the nature of the dredging; and what's driving the need for dredging; and then secondly, what's really the economic significance of that activity.

And here we're talking about essentially business or industries that are dependent on free access to navigational channels. If those navigational channels are filled, or somehow unavailable, the businesses that are dependent on them will suffer some economic hardship. So it's trying to balance out an understanding of what's the environmental context; what need is there for actual disposal of material; and what is the economic effect of either conducting that dredging or not.

We used the input from those scoping meetings with a series of meetings between the Corps and the EPA and the cooperating agencies to talk about some data collection strategies. I will point out that there is a whole series of posters

out in the meeting room there. There will be some opportunity to actually talk to people out there. This meeting we're receiving comment. We can't really answer questions or dialogue with you in this room. But a lot of the information is presented outside.

I'm going to briefly tell you that our approach was based on a really unique opportunity in Long Island Sound. There are four existing disposal sites listed on the screen behind me that have been used a variety of different years, but the longest use has been in excess of 25 years.

These sites have an extensive record of activity. We know when material went there and what kinds of materials went there, and we decided to do two things: One the ocean disposal regulations require that we look at active disposal or historical disposal sites as one of the priorities for site selection. So it was obvious to us that we needed to investigate these sites as potential alternatives. So we determined that we would collect some baseline data from these sites, not knowing what other sites may emerge from our studies; and secondly, we knew that the historical

record of disposal at these sites would allow us to get some understanding of potential impact of disposal should any site within the Sound be designated. So it allowed us to do some predictive work based on our understanding of the record of activity at these sites.

We collected sediment samples, looked at them physically, chemically, looked at their toxicology, that is whether the contact of those sediments might affect or be toxic to certain organisms, and we looked at the organisms that lived within the sediments at the sites.

In addition, in 2000, we collected fish, worm, clam and lobster samples. In this case we are collecting tissue samples to understand what body burdens they may have in terms of contaminants of concern within the Sound. Again, we did a hierarchical sample so that we were looking both at the historical areas and at areas outside of them. This was done in conjunction with a very extensive trawl study that the Connecticut DEP has been conducting for over 18 years. They visited a series of randomly-allocated sites throughout the Sound several times a year. We piggybacked on

their survey so that we could use their protocols. They would tend to measure the fish and return them. We selected small numbers of samples to do the tissue analysis.

Secondly, we took that trawl data, which was essentially covering the same period of time that our best understanding of disposal history has occurred and broke it down, looked at it more specifically in the regions around the disposal sites and also the regions within the Sound, both to understand the baseline, nature and change in fluctuation of fish populations throughout the Sound, but also to look to see if we could see any relative change in that population related to disposal activity.

The alternatives to open water disposal are really predicated on understanding that this EIS, as its mandate, was to determine whether an open water disposal site could or should be designated. The process is not set up to designate a land-based site or to designate any particular technology, but we're concerned that it was very important to understand if there was an alternative, there were large land areas or

technologies that could actually accommodate this material, that would suggest there was no need to do an open water disposal designation.

We looked at upland sites, specifically looking at potential for landfill cover, asphalt batching, brownfield redevelopment -- you're probably familiar with that. It's taking already contaminated lands within industrial or urban areas and essentially placing material on them that is less contaminated and developing them for redevelopment within that urban area.

We looked at along shore placement of dredged material. This has been done for a long time. If you have good clean sand, you can use it to nourish beaches. In some cases, we can develop marsh restoration projects with appropriate kinds of dredged material. Then we also looked, as I mentioned, at these major categories of treatment technologies, ways that are really designed to either stabilize or remove the contaminants from relatively highly contaminated dredged material. These technologies exist. They have been investigated in detail, and we were able to examine them in relation to the nature and types of

material that might be dredged in this region.

The backdrop to that is really what kind of material and how much of it needs to be dredged. Mark alluded to this. I'm going to show you one quick picture of those dredging centers he described.

In essence, we did a survey looking at a 20 year time frame from now out for 20 years looking at authorized federal navigation projects, what did the Corps, based on its history over the last 20 or 30 years, what did they expect to see in terms of maintaining those navigation channels.

That number came out just below 23 million cubic yards.

In addition to that, we surveyed private industry, marinas, boatyards, cities and looked at the Coast Guard Academy, other places that might be federal agencies, but were in Corps projects. They were looking at slightly over

9 million cubic yards over that time frame.

In addition to maintaining existing channels, some areas projected they would like to extend some berths, or perhaps move a channel into another area. We asked them to project what they

might do for improvement, either deepening of channels, or expansion of berthing areas, and there you're looking at about 1.3 million cubic yards
over that time period.

Here is the map. It is posted outside so you can look at the details. This is really breaking those results into what we call dredging centers, either specific harbors, or urban areas or reaches of the coast. The coding here is that the blue part of the circle are those federal channels, the authorized federal channels, and the gray are private projects. You can see there is a considerable difference between certain urban areas, particularly in the Connecticut shore, where there are long channels going into ports that are federal projects; and some of the smaller harbors, particularly the one here, along this part of Long Island, where there is coarser sediment, sandier sediment, and they tended to be dominated by small marina projects and the hauling contracts, but the circles are scaled to the volumes.

The economic significance then was also done by a series of surveys and economic analysis. There is a representative of that study here again,

not in the meeting but after the meeting if you wish to ask questions about that, I'm sure he will be available.

It's staggering really the number of dollars and jobs that are related to navigation-dependent industries. These are industries that use those navigation channels. For example, we're looking at billions of dollars, whether it's fishing, shipbuilding, or the others that are listed up here and tens of thousands of jobs.

As a result, it became pretty clear that the periodic dredging of the rivers and harbors along the coastlines of Long Island Sound is essential to the economic welfare of the region. I don't think anyone really disputes that, but it's helpful to have a more quantitative understanding of that.

Secondly, as much as and as hard as we looked at those upland sites, the survey sites throughout the region, and we looked at different beneficial use options and those technologies, the capacity is simply not there to meet those kinds of projected dredging needs. So you either have to

eliminate the needs or find an alternative to those types of approaches.

It's important to understand, as has been pointed out already, that designating a site merely gives the availability of a project to apply to go to the site. That project must still then go through this process. The project has to determine whether there is an upland alternative for that project. The project has to determine if there is any beneficial use for the material, or whether there is any other alternatives, technology or otherwise, that could take that material. So some of our information is intended to be there as a source and a resource for individual projects. It was clear to us that that total amount could not be handled by these kinds of options, but smaller specific kinds of projects might be able to.

So that the net conclusion from that was that one or more open water dredged material sites would be needed if those dredging needs need to be met over that 20-year period.

I'm going to turn it back to Carlton. We sort of reached a point in the history here where some decisions need to be made, and he's

going to explain those.

DR. HUNT: Thank you.

In March 2002, the agency determined that some modifications to that Zone of Siting Feasibility were required. Two principal reasons: (1) The need to in a timely manner address the dredging needs for Central and Western Long Island Sound. There was an urgency there, and also the fact that the Central and Western basins of Long Island Sound tend to be geographically distinct from that of the Eastern Sound.

This modification does not preclude the fact that a comprehensive range of alternatives must be addressed, just as Drew mentioned a moment ago, for any project that goes out into the Sound. It also doesn't preclude the fact that the EPA and the Corps of Engineers will do a supplemental EIS for the Eastern region of Long Island Sound, a supplement to this current EIS, to determine what the acceptable alternatives are in that region.

This figure shows where the original Zone of Siting Feasibility was addressed is located. Essentially, it goes from Block Island in the east all the way to the East and Harlem Rivers

in this portion of New York. That was the original Zone of Siting Feasibility. It was constrained due to practicality reasons to include economics of hauling material that far and also environmental concerns regarding disposal of this type of material on the Continental Shelf, slope or deep ocean. The modified zone of Siting Feasibility extends from the East and Harlem Rivers to the east, and crossing the Sound to the line divided from Mullbury Point in Guilford, Connecticut and Mattituck Point in New York. That's the region that was evaluated in this EIS.

In order to get to the point of having the specific areas on the seafloor that would be acceptable to receive material, dredged material, a process was instituted that used geographic information layers, system layers, to examine data that is available in the Sound. In order to get to those screening layers, the process focused on the five general criteria that are required to be evaluated by the ocean dumping regulations and the 11 regulatory criteria that are included.

Those criteria were looked at and examined, and additional factors were identified

through the public process that Drew mentioned to determine what kinds of data needed to be evaluated. Once that was completed, that information was prioritized into two tiers.

The first tier provided an ability to remove or eliminate areas that were clearly unacceptable for a dredged material disposal site.

The second tier then took the remaining areas of the Sound and evaluated whether or not there were specific locations that we could further consider.

In tier one, the tier that ruled out areas as unacceptable for putting a disposal site, considered things of stability of the ocean floor, seafloor, how much resuspension might be occurring in those areas, as well as the feasibility of putting the material there and monitorings. We also evaluated areas of conflicting use, such things as beaches and amenities, utilities, underground -- underwater pipelines, cable, those types of information, and conservation areas, such as sanctuaries, wildlife refuges, artificial reefs were all evaluated as being unacceptable to place the dredged material disposal site. Shellfish

areas, areas that are actively shellfished were excluded. Areas that are navigation channels were excluded. Valuable marine habitats defined in this EIS, as being those parts of the seafloor that provide a lot of structure, that is gravel and hard bottom areas were excluded, and also areas of high dispersion potential were excluded.

In Tier 2, several criteria were employed to minimize impact from this disposal process. We looked at archeological resources. We examined fish habitats and fish productivity. We looked at living resources, where they breed, where they spawn, where they travel and feed; the benthic community, an important component of the Sound and also fish and shellfish resource areas.

Preferred siting was also looked at in terms of the sediment characteristics, areas that had high contamination, fine grain sediments, the texture is the grain size. Those things were examined as part of this EIS to determine where it was appropriate to place these alternatives.

And the last thing that was mentioned earlier, historic disposal sites, also have a criteria by which it is asked to look at in terms

of whether or not you can place a site there.

The alternatives that were identified are four that you have in front of you in the EIS. Two of those are existing, dredged material disposal sites, two are former or historic disposal sites. The four sites are shown in this map. Central Long Island Sound and WLIS are current sites. Bridgeport and Milford are historic sites.

During the agency review process, it was determined that the two sites, Milford -- Bridgeport and Milford did not have sufficient information by way to make a decision -- or from which to make a decision. Therefore, a field program was mounted in the summer of 2002 that examined in those locations and adjacent areas sediment chemistry, the benthic community structure, habitat characteristics, bottom topography, the types of material that went into the sites, lobster resources, and that whole process of collecting that information was completed, as I said, in the summer of 2002.

That information and all of the other literature that I alluded to previously were brought together in the EIS to evaluate the five

alternatives, four sites and the no-action alternative that NEPA requires one to look at. No action essentially is to not consider designating a long-term site in Long Island Sound.

In the EIS, they have in front of you there are a number of chapters. I'm very quickly going to overview what the content is.

In Chapter 1, it introduces the history of dredged material disposal in Long Island Sound and defines the scope of the EIS and the regulations and authorities that, in fact, guide the process.

Chapter 2 defines the purpose of the designation and need for dredged material disposal sites.

Chapter 3 describes in detail the alternatives that I've just alluded to and includes a statement in that or a summary statement of what the preferred alternatives are.

The bulk of the EIS is in Chapter 4. That describes the affected environment. That includes Long Island Sound in general, as well as each of these four specific sites. It's a base line that looks at the physical, chemical,

biological, and ecological aspects of the Sound and the sites as well as socioeconomic aspects.

In Chapter 5, the consequences of making this specific alternatives or designating any one of these alternatives as the preferred alternative are evaluated. In that chapter is a general description of the consequences of dredged material disposal in the marine environment. There is also a discussion for each site of the specific consequences that might occur at that site. And in there the details of the recommendations for the preferred alternative are provided.

Chapter 6 through 10 provides NEPA required information, basically compliance with other federal laws, public involvement, a list of complete references, list of references used, who prepared the EIS, and the agencies and organizations to whom this EIS was distributed to. There are several appendices, A through J, that provide technical detail that went into the evaluation.

Appendix J includes two important documents. For each preferred alternative there is a site management -- a site management and

monitoring plan. That is the set of documents that will guide any future work that is done for disposal that has occurred at the site, both the management side of it, as well as monitoring for potential impact.

The preferred alternatives that are put forth are the Central Long Island Sound and WLIS, the Western Long Island Sound.

The reasons for recommending these is the preferred alternatives. Those two sites were found to have the least potential environmental and economic impact when compared to the other three alternatives. Milford and Bridgeport were identified to have some potential impacts that could not be mitigated by any management process; and therefore, they also were not considered to be carried forward as preferred alternatives.

And lastly, the no action was determined to result in greater economic impact, as well as environmental impact to Long Island Sound; and therefore, it was not carried forward as the preferred alternative.

One last point to make is that during the review it was determined that both WLIS and

CLIS boundaries that were evaluated needed to be changed slightly to accommodate and be reconfigured to accommodate former dredged material disposal sites or some shoaling areas that were identified
in the case of WLIS. The reconfiguration does not change the conclusion. Essentially, the same information was used to evaluate those sites. The reconfigured boundaries work to move WLIS to the north and to the west slightly to avoid this shoaling area. You will note in this figure that former disposal or disposal mounds that are in, that are in WLIS site now are also encompassed within this configuration.

Central Long Island Sound was move slightly to the west. The eastern boundary was moved to the east, and the northern boundary was moved to the north to accommodate two former disposal sites and ensure that management of those sites was complete and effective.

The public review process is scheduled to end Monday, December 15th. That's this coming Monday. Once that is done, as I indicated earlier, the agencies will look at all comments, prepare responses, incorporate those responses into the EIS

and prepare an appendix document that, in fact, includes all comments as well as responses.

The final rule will come out -- the final EIS and final rule will come out of the Federal Register. As I explained again, as I indicated earlier, there will be a 30-day comment period. The Record of Decision and possible designation of the sites would follow that process.

I'm going to turn the podium back over to Larry. And thank you all for your attention. MODERATOR ROSENBERG: Thank you.

Ladies and gentlemen, it is crucial to this public process that your voice is heard, and we're here to listen, to listen to your comments, understand your concerns, and to provide you an opportunity to put your thoughts on the record should you care to do so.

You know, as a result of having this type of open process, we have been able to overcome many of the difficulties other agencies face when performing activities that directly or indirectly affect the environment and the quality-of-life issues that surround such activity.

Once again, we stand before you asking

for your expertise to help us seek solutions so together we can identify, evaluate and build a process that seeks solutions.

Now, although we are here to continue a process for the designation of dredged material of disposal sites from the Central and Western regions of Long Island Sound, we do need your participation throughout the entire process. And once again, I thank you for being here and contributing to this extremely worthwhile incentive. The hearing will be conducted in a manner that all who desire to express their views will be given an opportunity to do so. To preserve the right of all to express their views, I ask that there be no interruptions.

Furthermore, in order to make any decisions regarding the designation of dredged material disposal sites in the Central and Western regions of Long Island Sound, we, the Environmental Protection Agency and the United States Army Corps of Engineers, once again need to have you involve yourself in this environmental review.

When you came in, copies of the Federal Register and Notice and the procedures to be followed at this hearing were available. If you

did not receive these, both are available at the registration desk at the entrance to the hall.

I will not read either the hearing procedures or the Federal Register notice, but they will be entered into this record. A transcript of this hearing is being prepared, and the record will remain open, and written comments may be submitted today or by mail until 5:00 p.m. on December 15th, 2003. All comments received equal consideration.

Anyone who cannot attend, that you know of, but would like to send these written comments should forward those comments to Ann Rodney of the EPA New England office in Boston, Massachusetts.

Lastly, I would like to reemphasize that despite what you may have heard, or what you have read in the newspaper, neither the EPA nor the United States Army Corps of Engineers have planned or will plan in the future to dispose of any unsuitable materials at any of the sites that are being looked at in this EIS. And I would like to also re-emphasize that no final decision with regard to this project have been made by either the EPA or the Corps. It is our responsibility to fully evaluate the impacts of designating dredged

material disposal sites prior to making any decision.

And as I said, in order to accomplish that, we need you. Again, we are here to receive your comments, not to enter into a discussion of those comments, or to reach any conclusion. Any questions you have should be directed to the record and not to the individuals on the panel.

If there is no objection from the Hearing Officer, I will now dispense with the reading of the Federal Register Notice of the hearing and have it entered into the record.

MR. COTE: No objection.

(The Federal Register follows)

Federal Register Proposed Rules

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Friday, September 12, 2003

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228 [FRL-7553-9]

Ocean Disposal; Proposed Designation of Dredged Material Disposal Sites in the Central and Western Portions of Long Island Sound, CT

Agency: Environmental Protection Agency (EPA). Action: Proposed rule.

SUMMARY: EPA today proposes to designate two dredged material disposal sites; Central Long Island Sound (CLIS) and Western Long Island Sound (WLIS) located offshore from New Haven and Stamford, Connecticut, respectively, for the disposal of suitable dredged material removed from the central and western portions of the Long Island Sound region of Connecticut, New York and other nearby harbors or dredging sites. This action is necessary to provide long-term dredged material disposal sites for the current and future disposal

of this material. The proposed site designations are for an indefinite period of time. The sites are subject to continuing monitoring to ensure that unacceptable, adverse environmental impacts do not occur. The proposed action is described in the Draft Environmental Impact Statement (DEIS), and the monitoring plans are described in the CLIS and WLIS Site Management and Monitoring Plans (SMMPs). The SMMPS are provided as appendix J of the DEIS. Site designation does not itself actually authorize the disposal of any particular dredged material at a site. Proposals to dispose of dredged material at a designated site is subject to project-specific reviews and authorization and still must satisfy the criteria for ocean dumping.

DATES: Comments must be received by 5 p.m. on October 27, 2003. Public hearings dates:

1. September 30, 2003 in NY from 1 p.m. - 5 p.m. and 6 p.m. - 10 p.m.

1. October 1, 2003 in CT from 1 p.m. - 5 p.m. and 6 p.m. - 10 p.m.

ADDRESSES: Written comments should be sent to: Ms.

Ann Rodney, U.S. Environmental Protection Agency New England Region, One Congress Street, Suite 1100 (CWQ), Boston, MA 02114-2023 or electronically to Rodney.Ann@epa.gov.

The public hearing locations are:

1. September 30, 2003 - New York SUNY at Stony Brook, Stony Brook, NY 11794-1603. The meeting will be held inside the "Charles B. Wang Asian-American center".

2. October 1, 2003 - Westin Stamford, One First Stamford Place, Stamford, CT 06902.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Rodney, U.S. Environmental Protection Agency New England Region, One Congress Street, Suite 1100 (CWQ), Boston, MA 02114-2023, telephone (617) 918-1538, electronic mail: RodneyAnn@epa.gov.

SUPPLEMENTARY INFORMATION:

Public Review of Documents: The file supporting this proposed designation is available for inspection at the following locations:

1. In person. The Proposed Rule and the Draft Environmental Impact Statement (DEIS)

which includes the SMMPS (Appendix J), are available for inspection at the following locations: A. EPA New England Library, 11th Floor, One Congress Street, Suite 1100 (CWQ), Boston, MA 02114-2023. For access to the documents, call Peg Nelson at (617) 918-1991 between 10 a.m. and 3 p.m. Monday through Thursday, excluding legal holidays, for an appointment. B. Mamaroneck Public Library Inc., 136 Prospect Ave., Mamaroneck, NY. C. Port Jefferson Free Library, 100 Thompson Street, Port Jefferson NY. D. Bridgeport Public Library, 925 Broad Street, Bridgeport, CT. E. Milford City Library, 57 New Haven Ave., Milford, CT. F. New Haven Free Public Library, 133 Elm Street, New Haven, CT. G. New London Public Library, 63 Huntington Street, New London, CT. H. Norwalk Public Library, 1 Belden Ave., Norwalk, CT. I. Acton Public Library, 60 Old Boston Post Road, Old Saybrook, CT. J. Ferguson Library, 752 High Ridge Road, Stamford, CT.

2. Electronically. You also may review and/or obtain electronic copies of these documents and various support documents from the EPA home page at the Federal Register

http://www.epa.gov/fedrgstr/, or on the EPA New England Region's homepage at http://www.epa.gov/region 1/eco/lisdreg/.

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 et seq., gives the Administrator of EPA authority to designate sites where ocean disposal, also referred to interchangeably as ocean dumping, may be permitted. On October 1, 1986, the Administrator delegated authority to designate ocean dredged material disposal sites (ODMDS) to the Regional Administrator of the EPA Region in which the sites are located. The CLIS and WLIS sites are located within New England (EPA New England); therefore, this action is being taken pursuant to the Regional Administrator's delegated authority. EPA regulations (40 CFR 228.4(e)(1)) promulgated under the MPRSA require, among other things, that EPA designate ocean dumping sites (ODMDS) by promulgation in 40 CFR part 228. Designated ocean dumping sites are codified at 40 CFR 228.15. This

rule proposes to designate two sites for open water disposal of dredged materials. These sites are currently being used under the authority of MPRSA Section 103 and are located in the western and central regions of Long Island Sound.

The primary authorities that govern the aquatic disposal of dredged material in the United States are the CWA and the MPRSA. All dredged material disposal activities in Long Island Sound, whether from Federal or non-Federal projects of any size, are subject to the requirements of Section 404 of the CWA, 33 U.S.C. 1344. In 1980, the MPRSA was amended to add Section 106(f) to the statute. 33 U.S.C. 1416(f). This provision is commonly referred to as the "Ambro Amendment," named after Congressman Jerome Ambro. MPRSA section 106(f), 33 U.S.C. 1416(f) was itself amended in 1990. As a result of this provision, the disposal of dredged material in Long Island Sound from both Federal projects (projects carried out under the Corps civil works program or the actions of other Federal agencies or from non-Federal projects involving more than 25,000 cubic yards (19,114 cubic meters) of material must

satisfy the requirements of both CWA section 404 and the MPRSA. Disposal from non-Federal projects involving less than 25,000 cubic yards (19,114 cubic meters) of material, however, are subject to CWA section 404 only.

The two dredged material disposal sites in Long Island Sound being proposed in this action are necessary to provide long-term disposal options for the Corps to maintain deep-draft, international commerce and navigation through authorized federal navigation projects and to ensure safe navigation for public and private entities. One of the proposed sites is in the central portion of the sound, while the other is in the western portion of the sound.

The sites will be subject to continuing site management and monitoring to ensure that unacceptable, adverse environmental impacts do not occur. The management of the sites is further described in the draft Site Monitoring and Management Plans (SMMPs) for CLIS and WLIS (appendix J of the DEIS). Documents being made available for public comment by EPA at this time include this proposed rule, DEIS, and Draft SMMPS

(appendix J of DEIS).

The designations are being proposed in accordance with 40 CFR 228.4(e) of the Ocean Dumping Regulations, which allow EPA to designate ocean sites for disposal of dredged materials.

B. Regulated Entities

Entities potentially regulated by the proposed rule are persons, organizations, or government bodies seeking to dispose of dredged material in waters of Long Island Sound, under the MPRSA and its implementing regulations. The proposed rule is expected to be primarily of relevance to (a) parties seeking permits from the Corps to transport dredged material for the purpose of disposal into the waters of the central and western regions of Long Island Sound, and (b) to the Corps itself for its own dredged material disposal projects. Potentially regulated categories and entities that may seek to use the proposed dredged material disposal sites and would be subject to this Rule may include:

Category/Examples of potentially regulated entities

Federal Government...U.S. Army Corps of Engineers Civil Works Projects, and Other Federal Agencies.

Industry and General Public...Port Authorities, Marinas and Harbors, Shipyards, and Marine Repair Facilities, Berth Owners.

State, local and tribal governments...Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table lists the types of entities that could potentially be regulated should the proposed rule become a final rule. EPA notes that nothing in this proposed rule alters the jurisdiction or authority of EPA or the types of entities regulated under the MPRSA. Questions regarding the applicability of this proposed rule to a particular entity should be directed to the contact person listed in the preceding FOR FURTHER INFORMATION CONTACT section.

C. EIS Development

Section 102(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting environmental quality. The objective of NEPA is to build into agency decision-making process careful consideration of all environmental aspects of proposed actions, including evaluation of reasonable alternatives to the proposed action. While NEPA does not apply to EPA activities in designating ocean disposal sites under the MPRSA, EPA has voluntarily agreed as a matter of policy to conduct a NEPA environmental review in connection with ocean dumping site designations (See 63 FR 58045 (October 29, 1998), "Notice of Policy and Procedures For Voluntary Preparation of National Environmental Policy Act (NEPA) Documents." Consistent with this policy, EPA, in cooperation with the U.S. Army Corps of Engineers, has prepared a DEIS entitled, "Draft Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island

Sound, Connecticut and New York, dated August 2003" which considers the environmental aspects of site designation in central and western LIS. A Notice of Availability of the DEIS for public review and comment is being published concurrently with this Proposed Rule in today's Federal Register. Anyone wishing to review a copy of the DEIS may do so in one of the ways described above (see ADDRESSES). The public comment period for this DEIS will close on October 27, 2003. The public comment period on the Proposed Rule Publication will also close on October 27, 2003. Comments may be submitted by one or more of the methods described above.

The purpose of the proposed action is to designate open water disposal sites that will meet long-term dredged material disposal needs in LIS. The appropriateness of open water disposal for any specific, individual dredging project is determined on a case-by-case basis under the permit/authorization process governing the open water disposal of dredged material.

Designation of an open water disposal site under 40 CFR part 228 is essentially a preliminary, planning measure. The practical

effect of such a designation is only to require that if future ocean open water disposal activity is permitted under 40 CFR part 227, then such disposal should be normally be consolidated at the designated sites (see 33 U.S.C. 1413(b)). Designation of open water disposal sites does not authorize any actual disposal and does not preclude EPA or the Corps from finding available and environmentally preferable alternative means of managing dredged materials, or from finding that certain dredged material is not suitable for open water disposal under the applicable regulatory criteria. Nevertheless, EPA has determined that it is appropriate to designate open water disposal sites for dredged materials in the central and western Long Island Sound now, because it appears unlikely that feasible alternative means of managing dredged material will be available to accommodate the projected dredged material of this region in the future.

Proposals for the open water disposal of dredged materials from individual projects are evaluated by EPA New England and the Corps' New England District on a case-by-case basis, taking

into account all the alternatives available at the time of permitting. Beneficial reuse alternatives will be preferred over open water disposal whenever they are practicable.

The DEIS describes the purpose and need for the proposed action and evaluates a number of alternatives to this action. EPA's analysis of alternatives considered several different potential open water disposal sites for dredged material from Connecticut and surrounding harbors, as well as potential alternative means of managing these dredged materials other than open water disposal. As described in the DEIS, the initial screening evident was established to consider the most environmentally sound, economically and operationally feasible area site designation. Alteratives evaluated included various marine sites, upland disposal, beneficial uses, and the no action alternative.

In addition to considering reasonable distances to transport dredged material, the open water disposal analysis considered areas of critical resources as well as areas of incompatibility for use as a disposal site. This

included but was not limited to such factors as the sensitivity and value of natural resources, geographically limited habitats, fisheries, and shellfisheries, natural resources, shipping and navigation lanes, physical and environmental parameters, and economic and operational feasibility. The analysis was carried out in a tiered process. The final tier involved further analysis of the no action alternative and the following four open water alternative sites:

Central LIS (CLIS), Milford, Bridgeport and Western LIS (WLIS). These sites were evaluated and two sites were selected as preferred alternatives for potential site designation. Management strategies were developed for the preferred alternatives and are described in the SMMPs.

To obtain public input during the process, EPA and the Corps held public workshops and scoping meetings, as well as convened an EIS working group. The purpose of the working group was to assist in identifying and evaluating the best long-term dredged material disposal options for Long Island Sound. Representatives from state, local, tribal and federal agencies were invited to

participate in the working group as well as individuals representing other interests. The working group assembled for a series of five meetings between July 2000 and November 2002. Comments received were factored into the development of the DEIS. The NEPA process led to the current proposal that CLIS and WLIS be designated as open water dredged material disposal sites.

D. Proposed Sites Descriptions

The two sites, CLIS and WLIS, are proposed for designation. Draft SMMPS have been prepared for the two proposed open water disposal sites and are available for review and comment by the public. (Copies may be obtained by request from the FURTHER INFORMATION CONTACT listed in the introductory section to this proposed rule.) Use of newly-designated open water disposal sites would be subject to any restrictions included in the site designation and the approved SMMPS. These restrictions will be based on a thorough evaluation of the proposed sites pursuant to the Ocean Dumping Regulations and potential disposal activity as well

as consideration of public review and comment.

Central Long Island Sound (CLIS). The CLIS site proposed for long-term designation by EPA is currently in operation under the Corps' short-term site selection authority. It has been one of the most active dredged material disposal sites in New England. Overall, CLIS has received close to 14 million cubic yards (11 million cubic meters) since 1941. The site was used prior to enactment of MPRSA in 1972 and continued to be used thereafter. Between 1982 and 2001 CLIS received approximately 7 million cubic yards (5.4 million cubic meters), with an average annual volume of 350,000 cubic yards (268,000 cubic meters). The site is a rectangular area, approximately 2 nautical miles by 1 nautical mile, located 5.6 nautical miles south of South End Point near East Haven, Connecticut, in water depths from 59 to 74 feet (18 to 22.5 meters). The sediments at the site are predominantly uniform clayey silt with an area of mixed sand, clay and silt. These sediments are typical of those found in fine-grained depositional environments of the central basin of Long Island Sound. This proposed rule would

designate the CLIS site with boundaries slightly changed from the current site. The CLIS boundary was reconfigured so that the northern boundary was moved by 700 feet (215 meters) and the eastern boundary was moved by 1,230 feet (375 meters) in order to include two previously used disposal
mounds (FVP, CS2) which are currently outside of the existing site boundaries. This reconfiguration will allow for management and monitoring of the FVP and CS2 mounds. The coordinates (North American Datum 1983: NAD 83) for the proposed CLIS site, are as follows:

CLIS
41¦ 09'5"N, 72¦ 54'4" W.
41¦ 09'5"N, 72¦ 51'4" W. 41¦ 08'4"N, 72¦ 54'4" W. 41¦ 08'4"N, 72¦ 51'5" W.

Western Long Island Sound (WLIS). The
WLIS site proposed for long-term designation by EPA is currently in operation under the Corps' short-term site selection authority.

The site is a rectangular area, 1.2 by 1.3 square nautical miles (2.2 by 2.4 kilometers)

that has been use for dredged material disposal since 1982. After completion of an EIS, the site was established in 1982 as a regional dredged material disposal site to serve the needs of the western area of Long Island Sound. Between 1982 and 2001, WLIS received 1.7 million cubic yards (1.3 million cubic meters), with an average annual volume of 85,000 cubic yards (65,000 cubic meters). The site is located 2.7 nautical miles north of Lloyd Point, New York and 2.5 nautical miles (4.6 kilometers) south of Long Neck Point near Noroton, Connecticut, in water depths of 79 to 118 feet (24 to 30 meters). The sediments at the site are heterogeneous, with clay silt in the northeast corner and a mixture of sand-silt-clay in the center and southeast corner. These sediments are typical of those found in fine-grained depositional environments of the western basin of Long Island Sound. In addition to the ambient silts from this region, there are deposits of material of mixed grain sizes dredged from harbors and navigation channels throughout the western basin. This proposed rule would designate the WLIS site with boundaries which have been slightly reconfigured.

The WLIS boundaries have been shifted to the west by approximately 1,106 feet (337 meters) and to the north by 607 feet (185 meters). This shift move will relocate the WLIS site out of a rapidly shoaling area. The coordinates (North American Datum 1983: NAD 83) for the proposed WLIS site, are as follows:

WLIS

41¦ 00'1"N., 73¦ 29'8"W.

41¦ 00'1"N., 73¦ 28'0"W. 41¦ 58'9"N., 73¦ 29'8"W. 41¦ 58'9"N., 73¦ 28'1"W.

E. Analysis of Criteria Pursuant to the Ocean Dumping Act Regulatory Requirements

Five general criteria are used in evaluating possible dredged material disposal sites for long-term use under the MPRSA (see 40 CFR 228.5).

General Criteria (40 CFR 228.5)

1. Minimize interference with other activities, particularly avoiding fishery areas or major navigation areas. The first of the five general criteria requires that a determination be

made as to whether the site or its use will minimize interference with other uses of the marine environment. For this proposed rule, a determination was made to overlay individual uses and resources over GIS bathymetry and disposal site locations. This process was used to visually determine the maximum and minimum interferences with other uses of the marine environment that could be expected to occur. Both the CLIS and WLIS disposal sites showed minimum interference with other activities. The proposed sites do not interfere with lobster or fishing activities, although the areas surrounding the disposal sites provide good lobster habitat. The two proposed sites are also not located in shipping lanes or major navigation areas and otherwise have been selected to minimize interference with fisheries, shellfisheries and regions of commercial or recreational navigation.

2. Minimize Changes in Water Quality. Temporary water quality perturbations (during initial mixing) caused by disposal operations would be reduced to normal ambient levels before reaching areas outside of the disposal site. The second of

the five general criteria requires that locations and boundaries of disposal sites be selected so that temporary changes in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within a site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching beaches, shorelines, sanctuaries, or geographically limited fisheries or shellfisheries. The proposed sites will be used only for dredged material disposal of suitable sediments as determined by application of MPRSA sediment quality criteria. No significant contaminant or suspended solids released are expected. Based on data evaluated as part of the DEIS, disposal of either sandy or fine-grained material would have no long-term impact on water quality at the proposed sites. In addition, dredged material deposited at the sites and water quality perturbations are not expected to reach any marine sanctuary, beach or other important natural resource area.

3. Interim Sites Which Do Not Meet Criteria. There are no interim sites to be

considered under this criterion. The CLIS and WLIS proposed sites are not interim sites as defined under the Ocean Dumping regulations.

4. Size of sites. The fourth general criterion requires that the size of open water disposal sites be limited to localize for identification and control any immediate adverse impacts and to permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. Size, configuration and location is to be determined as part of the disposal site evaluation. For this proposed rule, EPA has determined, based on the information presented in the DEIS, that the sites have been sized to provide sufficient capacity to accommodate material dredged from the harbors and channels of Long Island Sound. The existing site boundaries of the CLIS site have been reconfigured to include two previously used disposal (FVP and CS2) mounds that were outside of the existing boundary. Inclusion of these mounds within the CLIS disposal site boundary will allow for management and monitoring of the mounds. The WLIS site has also been reconfigured. The WLIS

boundaries were moved to the north west to avoid a rapidly shoaling area. The management and monitoring plans are described in the CLIS and WLIS SMMPs (Appendix J of the DEIS).

5. EPA must, wherever feasible, designates dumping sites beyond the edge of the continental shelf and where historical disposal has occurred. The fifth criterion requires EPA, wherever feasible, to designate ocean dumping sites beyond the edge of the continental shelf and at other sites that have historically been used.

Sites beyond the edge of the continental shelf are not economically feasible due to the extended travel time and associated expense. In addition, the proposed sites, if designated, encompass the footprint of historically used sites. Thus, the proposed disposal sites are consistent with this criterion.

As discussed briefly above, EPA has found that the CLIS and WLIS disposal sites satisfy the five general criteria described in 40 CFR 228.5 of the EPA Ocean Dumping Regulations. More detailed information relevant to these criteria can be found in the DEIS and SMMPs.

In addition to the general criteria discussed above, 40 CFR 228.6(a) lists eleven specific factors to be used in evaluating a proposed disposal site under the MPRSA to assure that the five general criteria are met. The CLIS and WLIS sites, as discussed below, are also acceptable under each of the 11 specific criteria. The evaluation of the preferred disposal sites relevant to the 5 general and 11 specific criteria is discussed in substantially more detail in the DEIS.

Specific Criteria (40 CFR 228.6).

1. Geographical Position, Depth of Water, Bottom Topography and Distance From Coast (40 CFR 228.6(a)(1)). The proposed CLIS site is a rectangular area approximately 2 nautical miles by 1 nautical mile, located 5.6 nautical miles south of South End Point near East Haven, Connecticut, in water depths from 59 to 74 feet (18 to 22.5 meters). The sediments at the site are predominantly uniform clayey silt with an area of mixed sand, clay and silt. The seafloor at CLIS slopes from northwest to southeast. The proposed WLIS site is a rectangular area, of approximately 1

square nautical mile. The site is located 2.7 nautical miles north of Lloyd Point, New York and 2.5 nautical miles (4.6 kilometers) south of Long Neck Point near Noroton, Connecticut, in water depths of 79 to 118 feet (24 to 30 meters). The sediments at the site are heterogeneous, with clay silt in the northeast corner and a mixture of sand-silt-clay in the center and southeast corner. These sediments are typical of those found in fine-grained depositional environments of the western basin of Long Island Sound. The seafloor at WLIS is a gentle downward sloping plane from north to south and is bisected by an axial depression that runs from east to west, dipping to 118 feet (36 meters) in one quarter of the site in the southern half. EPA anticipates that disposal of dredged material placed at either of these sites would adhere to mound configuration. Each site will be managed based on its unique environmental conditions.

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult Or Juvenile Phases (40 CFR 228.6(a)(2)). The Corps and EPA has initiated

ESA and EFH consultation with publication of the DEIS in coordination with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS). Through coordination with the New York Department of Environmental Conservation, the Connecticut Department of Environmental Protection, NMFS and USFWS, data has been obtained on current threatened or endangered species in Long Island Sound. The many organisms at the proposed sites include zooplankton (copepods, tintinnids) and phytoplankton. These organisms display a range of abundance by season. The populations at or near the proposed sites are not unique to the sites and are present over most of the sound. It is expected that although small, short-term entrainment losses may occur immediately following disposal, no long term, adverse impacts to organisms in the water column will occur.

The benthic community at these sites is comprised primarily of Annelida, Mollusca, and Crustacea. Abundance was greater at the WLIS site. It is expected that short-term reduction in abundance and diversity at the sites may occur immediately following disposal, but long term,

adverse impacts to benthic organisms are not expected to occur.

The sites are located off shore in a semi-enclosed estuary that is occupied by more than 83 fish species. Species richness did not vary change significantly among sites. Some fish species found to dominate the areas include winter flounder, windowpane flounder and scup. The American lobster is a primary shellfish resource in the sound. At the CLIS site, longfin squid were also abundant. It is expected that impacts to finfish resources will consist of short-term, local disruptions and the potential loss of some individual fish of certain nonmigratory species. Most of the finfish species are migratory. It is expected that impacts to lobster will be short-term and associated with disposal, burial and loss of habitat or food.

The coast supports a large number of resident and migratory marine and coastal birds. Dozens of marine and coastal birds migrate through Long Island Sound annually. In addition, LIS provides limited habitat for most marine mammals and reptiles. The species that are frequent or

occasional visitors to the sound are harbor porpoises, long-finned pilot whales, seals and sea turtles (Kemp's ridley, loggerhead, leatherback and hawksbill).

The federally listed threatened and endangered species or species of "special concern" which may occur within the area of the proposed sites include: Humpback, fin, and right whales; loggerhead, green, Kemp's ridley, and hawksbill sea turtles; Atlantic and Shortnose sturgeons. No endangered birds are expected to occur in the area of the proposed sites. Occurrence of these species varies by season. Use of the sites by whales and endangered birds would be incidental. The presence of sea turtles may occur in this area of the proposed sites during the summer and fall. It is not expected that dredging activities would have any significant adverse effect on these species or their critical habitat. Disposal at both of the proposed sites is expected to result in the mortality of benthic organisms as an immediate result of material burying organisms on the seafloor. However, recolonization at the disposal sites is expected to occur within a year or more

after a disposal event. With respect to the other living resources that use the proposed CLIS and WLIS sites, the sites are not being located in areas that provide limited or unique breeding, spawning, nursery, feeding, or passage areas.

3. Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)). The CLIS and WLIS disposal sites are within the semienclosed Long Island Sound estuary. The closest beaches, refuges sanctuaries or areas of special concern are at least two nautical miles from either disposal site. The CLIS and WLIS disposal sites are approximately 6 nautical miles (11 kilometers) from the closest beaches (Short Beach and Calf Pasture Beach, respectively). For the CLIS disposal site, the closest refuge or sanctuary (approximately seven nautical miles) is the Outer Island Unit of the Stewart B. McKinney National Wildlife Refuge. Areas of special concern at the CLIS site include Quinnipiac River Marsh Wildlife Management Area, Great Harbor, Wildlife Management Area and Wildwood State Park. For the WLIS disposal site, the closest refuge or sanctuary is the Stewart B. McKinney National Wildlife Refuge, Caumsett State

Park and Target Rock National Wildlife Refuge. It is expected that impacts would not occur to beaches, areas of special concern, parks, natural resources, sanctuaries or refuges since they are either land-based or further than two nautical miles from either proposed disposal site. Therefor, EPA has determined that dredged material disposal at the preferred disposal site locations should not have any adverse effect on beaches or other amenity areas, including wildlife refuges or other areas of biological or recreational significance.

4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)). The typical composition of dredged material to be disposed at the sites is expected to range from predominantly "clay-silt" to "mostly sand." This expectation is based on data from historical projects from the Central and Western Regions of Long Island Sound. The disposal of this material shall occur at designated buoys and would be expected to be placed so as to concentrate material from each disposal. This

placement is expected to help minimize bottom impacts to benthic organisms. Suitability determinations will be made before authorization

for disposal under MPRSA section 103 and CWA section 404 will be issued. The sites that are proposed to be designated will receive dredged materials determined to be suitable for ocean disposal that are transported by either government or private contractor hopper dredges or ocean-going bottom-dump barges towed by tugboat. Both types of equipment release the material at or very near the surface.

Furthermore, it should be emphasized that these disposal sites are being promised for designation only to receive dredged material; disposal of other types of material at these sites will not be allowed. It should also be noted that the disposal of certain other types of material is expressly prohibited by the MPRSA and EPA regulations (e.g., industrial waste, sewage sludge, chemical warfare agents). See, e.g., 33 U.S.C. 1414b; 40 CFR 227.5(b). For these reasons, no significant adverse impacts are expected to be associated with the types and quantities of dredged

material that may be disposed of at the sites.

5. Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)). Monitoring and surveillance are expected to be feasible at both proposed sites. Both sites are readily accessible for bathymetric surveys and have undergone monitoring, including sidescan sonar. If field monitoring of the disposal activities is required because of a future concern for habitat changes or limited resources, a management decision will be made by EPA New England and the Corps' New England District who share the responsibilities of managing and monitoring the disposal sites. Once the proposed sites are designated, monitoring shall be completed in accordance with the then-current SMMPs. It is expected that revisions to the SMMPS may be made periodically; revisions will be circulated for review, coordinated with the affected states and become final when approved by EPA New England Region in conjunction with the Corps' New England District. See 33 U.S.C. 1413(c)(3).

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area,

Including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)). The interactions of bathymetry, wind-generated waves and river and ocean currents are complex. Tidal currents are the dominant source of water movement in LIS. Tidal currents generally run east-west parallel to the axis of the Sound and are substantially stronger in the eastern portion of the sound. At the CLIS site, average peak ebb and peak flood currents run 20 to 30 centimeters/second (depth averaged), with the spring tides 20 to 40 percent stronger. The dominant flow direction is east-west. Also observed is a net west-southwestward flow of approximately 2.5 centimeters/second. The wind fetch at both sites is limited by the semienclosed nature of the LIS and wave height was recorded in the spring of 2001 at 5 feet. However, wave heights can be developed at the site by winds from storms. A northeast storm with a return period of 2 years will generate waves of 8 feet. Storms with a return period of 10 years will generate waves of 10 feet. At the WLIS site, average peak ebb and peak flood currents run 20 to 30 centimeters/second (depth-averaged), with

the spring tides 20 to 30 percent stronger. Based on studies conducted historically, flows directed to the west-southwest run from 30 to 45 centimeters/second 5 percent of the time. The wind fetch is limited at this site, however wave height was recorded in the spring of 2001 at 6.5 feet. A northeast storm with a return period of 2 years will generate waves of 9 feet. Storms with a return period of 10 years will generate waves of 11 feet.

It is expected that peak wave induced bottom orbital velocities are not sufficient to cause significant erosion of dredged material at either of the proposed sites. For these reasons, EPA has determined that the dispersal, transport and mixing characteristics, and current velocities and directions at the CLIS and WLIS sites are appropriate for designation as a dredged material disposal sites.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (including Cumulative Effects) (40 CFR 228.6(a)(7)). The CLIS and WLIS disposal sites are currently being used for disposal activity pursuant

to the Corps' short-term site selection authority under section 103(b) of the MPRSA. 33 U.S.C. 1413(b). These sites have also been used historically under prior legal regimes. These past disposal operations at these sites have been managed and material disposal has been monitored. Past use of these sites generally makes them preferable to more pristine sites that have either not been used or have been used in the more distant past. See 40 CFR 228.5(e). Beyond this, however, EPA's evaluation of data and modeling results indicates that these past disposal operations have not resulted in unacceptable or unreasonable environmental degradation, and that there should be no significant adverse cumulative environmental effects from continuing to use these sites on a long-term basis.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)). In evaluating whether disposal activity at the sites could interfere with shipping, fishing, recreation, mineral extraction,

desalination, areas of scientific importance and other legitimate uses of the ocean, EPA considered both the direct effects from depositing dredged material on the ocean bottom at the proposed sides and the indirect effects associated with increased vessel traffic that will result from transportation of dredged material to the disposal sites. Commercial fishing activities occur throughout LIS. Commercial fish trawling occurs in the vicinity of the CLIS proposed site and is the only area within the western and central Sound that fishermen can trawl successfully due to the abundance of lobster pots in other areas of the Sound. Commercial fishing is not affected at the WLIS site since it is not currently used due to harvesting restrictions. While lobstering occurs at both proposed sites, WLIS is a more active lobstering site than CLIS. Recreational fishing most frequently occurs from spring to fall in areas with reefs and other areas of high relief. Recreational fishing occurs at several reefs in LIS that are within two to five nautical miles of the proposed disposal sites. Fish and shellfish areas, occur in nearshore areas and, therefore, are not impacted by

this action. A USCG lightering area overlays the northeast corner of the CLIS site. The Corps will coordinate with the USCG to shift the designated anchorage boundary to ensure that existing mounds and future disposed dredged material is not disturbed. The proposed sites are not located in shipping lanes. Energy resources are located near the proposed sites, but no pipelines or cables are within their boundaries. While at the time of this evaluation only three pipelines were in place, development of several new pipelines is anticipated.

Furthermore, neither site is an area of specific scientific importance, desalination, fish and shellfish culture or mineral extraction. Accordingly, depositing dredged material at the sites will not interfere with any of the activities mentioned in this criterion. Increased vessel traffic involved in the transportation of dredged material to the proposed disposal sites should not impact shipping or activities discussed above.

9. The Existing Water Quality and Ecology of the Sites as Determined by Available Data or by Trend Assessment or Baseline Survey (40

CFR 228.6(a)(9)). Water and sediment quality analyses conducted in the site areas and experience with past disposal in this region have not identified any adverse water quality or ecological impacts from ocean disposal of dredged material. Baseline data is further described in the DEIS.

10. Potentiality for the Development of Recruitment of Nuisance Species in the Disposal Sites (40 CFR it 28.6(a)(10)). Local opportunistic benthic species characteristic of disturbed conditions are expected to be present and abundant at any ODMDS in response to physical deposition of sediments. However, no recruitment of nuisance species or species capable of harming human health or the marine ecosystem is expected to occur at the sites.

11. Existence at or in Close Proximity to the Sites of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11)). Due to the location of the proposed sites in LIS, the cultural resource that has the greatest potential for impact would be shipwrecks. A review of the existing NOAA and Warren C. Reiss Marine shipwrecks databases illustrated a total of

39 shipwrecks in LIS. Although none of the known shipwrecks of historical significance are located within the boundaries of the proposed sites, the central LIS region is known to have at least twelve shipwrecks and the western LIS region is known to have at least four shipwrecks. Undiscovered shipwrecks could occur in the area. As additional sidescan sonar surveys are conducted in the future, and if potential shipwrecks are identified, EPA
New England and the Corps' New England District will take appropriate action.

The Connecticut State Historic Preservation Officer has determined there are no known historic shipwrecks nor any known aboriginal artifacts at the CLIS and WLIS disposal sites. Two of the region's Indian tribes were included as cooperating agencies during the development of the EIS. The Indian tribes have not identified natural or cultural features of historical significance at either site proposed for designation in this rule.

E. Proposed Action

The DEIS concludes that the proposed sites may appropriately be designated for long-term

use as open water dredged material disposal sites. The proposed sites are compatible with the general and specific factors used for site evaluation.

EPA is publishing this Proposed Rule to propose the designation of the CLIS and WLIS disposal sites as EPA-approved open water disposal sites. The monitoring and management of requirements that will apply to these sites is described in the draft SMMPs. Management of these sites will be carried out by EPA New England in conjunction with the Corps' New England District.

It should be emphasized that, if an ocean disposal site is designated, such a site designation does not constitute or imply Corps or EPA's approval of open water disposal of dredged material from any specific project. Before disposal of dredged material at the site may commence, EPA and the Corps must evaluate the proposal according to the ocean dumping regulatory criteria (40 CFR part 227) and authorize disposal. EPA has the right to disapprove of the actual disposal, if it determines that environmental requirements under the MPRSA or the CWA have not been met.

F. Statutory and Executive Order Reviews

1. Executive Order 12866: Regulatory Planning and Review.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(A) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(B) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed action is not a "significant regulatory action" under E.O. 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This final rule would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.) because it would not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a Federal agency.

3. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act

or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business based on the Small Business Administration's (SBA) size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant impact on small entities because the proposed open water disposal site designation will only have the effect of providing long term environmentally-acceptable disposal options for dredged materials. This action also provides options which are safe for marine traffic (navigation hazards) on a continuing basis. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic

impact on a substantial number of small entities.

4. The Unfunded Mandates Reform Act and Executive Order 12875.

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector.

Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal Mandates" that may result in expenditures to State, local and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows

EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed action contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this proposed action contains no regulatory

requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this rule.

5. Executive Order 13132: Federalism.

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of pour and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132.

This proposed rule addresses the designation of open water sites in Long Island Sound for the potential disposal of dredged materials. This proposed action neither creates new obligations nor alters existing authorizations of any state, local or governmental entities. Thus, Executive Order 13132 does not apply to this rule. Although Section 6 of the Executive Order 13132 does not apply to this proposed rule, EPA did consult with representatives of State and local governments in developing this rule.

In addition, and consistent with Executive Order 13132 and EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, November 6, 2000),

requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The proposed action does not have Tribal implications. If finalized, the proposed action would not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. This proposed rule designates open water dredged material disposal sites and does not establish any regulatory policy with tribal implications. EPA specifically solicits additional comment on this proposed rule from tribal officials. Thus,

Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe might have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency. This proposed rule is not an economically significant rule as defined under Executive Order 12866 and does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. Therefore, it is not subject to Executive Order 13045.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use" (66 FR 8355 (May 22, 1001)) because it is not a significant regulatory action under Executive Order 12866.

9. National Technology Transfer Advancement Act Section 12(d) f the National Technology Transfer Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d)(15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use

available and applicable voluntary consensus standards. This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 128898 provides that each Federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or

national origin.

No action from this proposed rule will have a disproportionately high and adverse human health and environmental effect on any particular segment of the population. In addition, this rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of Executive Order 12898 do not apply.

11. National Environmental Policy Act of 1969 Section 102(c) of the National Environmental Policy Act of 1969, section 4321 et seq., (NEPA) requires Federal agencies to prepare environmental impact statements (EIS) for major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. Although EPA ocean dumping program activities have been determined to be "functionally equivalent" to NEPA, EPA has a voluntary policy to follow NEPA procedures when designating ocean dumping sites. See, 63 FR 58045 (October 29, 1998). In addition to the Notice of

Intent published in the Federal Register in June 1999 (64 FR 29865 (1999)), EPA and the Corps published legal notices in local newspapers and issued a press release inviting the public to participate in DEIS scoping meetings. Three formal scoping meetings were conducted in June 1999. In addition, EPA and the Corps have held public workshops and several working group meetings. As discussed above, EPA is issuing a DEIS for public review and comment in conjunction with publication of this proposed rule.

In addition, EPA and the Corps will submit Coastal Zone Consistency determinations to the states of New York and Connecticut for publication in the Final EIS. Coordination efforts with NMFS and USFWS for ESA and EFH consultation
was initiated during the DEIS process.

List of Subjects in 40 CFR Part 228 Environmental protection, Water
pollution control.

Robert W. Varney,
Regional Administrator, EPA New England.

In consideration of the foregoing, EPA is proposing to amend part 228, chapter I of title 40 of the Code of Federal Regulations as follows:

Part 228 - CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by removing and reserving paragraphs (b)(1), and (b)(2); and adding paragraphs (b)(3) and (b)(4) to read as follows:

228.15 Dumping sites designated on a final basis. * * * * * *

(b)* * *

(1) [Reserved]

(2) [Reserved]

(3) Central Long Island Sound Dredged Material Disposal Site (CLIS):

(i) Location: Corner Coordinates (NAD 1983) 41¦ 09'5"N, 72¦ 54'4"W; 41¦ 90'5"N, 72¦ 51'5"W.; 41¦ 08'4"N., 72¦ 51'5"W.; 41¦ 08'4"N., 72¦

54'4"W.

(ii) Size: 2 square nautical miles. (iii) Depth: range from 18 to 23.5 meters.

(iv) Primary use: Dredged material disposal.

(v) period of use: Continuing use.

(vi) Restriction: Disposal shall be limited to dredged material from Long Island Sound and vicinity.

(4) Western Long Island Sound Dredged Material Disposal Site (WLIS)

(i) Location: Corner Coordinates (NAD 1983) 41¦ 00'1"N., 73¦ 29'8"W.; 41¦ 00'1" N., 73¦ 28'0"W.; 41¦ 58'9N., 73¦ 29'8"W.; 41¦ 58'9"N., 73¦ 28'1"W.

(iii) Size: 1.2 by 1.3 nautical mile rectangular area.

(iii) Depth: range from 24 to 30 meters.

(iv) Primary use: Dredged material disposal.
(v) Period of use: Continuing use. (vi) Restriction: Disposal shall be

limited to dredged material from Long Island Sound and vicinity.

* * * * *

[FR Doc. 03-22645 Filed 9-11-03; 8:45 am]

MODERATOR ROSENBERG: Thank you.

A transcript of this hearing is being made to assure a detailed review of all the comments. A copy of the transcript will be available at the EPA New England Regional Office in Boston and the Corps' New England District Office in Concord, Massachusetts, on the EPA's website, or you may make arrangements with the stenographer for a copy at your own expense.

Individuals speaking today will be called to the microphone in the order that they signed in and as provided for in that hearing protocol. When making a statement, come forward to either one of the microphones on either side of the room. As there are many who wish to speak, and as you heard earlier, you will be provided three minutes to speak, no more. The traffic signal will indicate the following: The green light will come on indicating two minutes remaining; the amber

light indicates one minute; and of course, the red light indicates that the time has expired. Please identify if you're speaking for or representing a position of an organization. If you're speaking for yourself, please say so.

Lastly, I want to re-emphasize that all who wish to speak will have that opportunity.

We will now begin to receive your comments according to those hearing protocols. And again, written and oral statements receive equal consideration in our decision-making process; so if you run over three minutes, please take your statement, drop it off in the box so it can be entered into the record.

The first speaker, Krystn Ledoux from Senator Joseph Lieberman's office, Connecticut.

MS. LEDOUX: Thank you.

My name is Krystn Ledoux, and I'm here today representing Senator Joseph Lieberman of Connecticut.

I would like to read a statement that the Senator has prepared.

Throughout the duration of my career, first as a state legislator, then as the Attorney

General for the State of Connecticut and now in my current position as a United States Senator representing Connecticut, I have fought tirelessly to protect our environment and its precious natural resources. Of special concern to me has been ongoing efforts to restore and protect the fragile environment of Long Island Sound.

In 1991, I introduced legislation that led to the creation of the office of Long Island Sound within the U.S. Environmental Protection Agency. This office was established to consolidate efforts within the EPA to complete and implement the Long Island Sound study. In addition, Senator Dodd and I are hopeful that we will secure $2.3 million in funding for the continuing cleanup and preservation activities in Long Island Sound that will combat declining fish populations, wetlands degradation and toxic pollution once the federal budget process for 2004 is completed.

Given my long-standing commitment to the protection of Long Island Sound, I am naturally cautious about any plan that could potentially have a negative impact on the health of the Sound. However, after careful consideration of the EPA's

Draft Environmental Impact Statement for the designation of dredged material disposal sites in Central and Western Long Island Sound, I strongly support the EPA's conclusion that any potential impacts to the Sound's marine environment
associated with dredged material disposal at the historically utilized Central Long Island Sound and Western Long Island Sound disposal sites would be minimal and could be mitigated with appropriate site management.

On December 8th, I joined the entire Connecticut Congressional Delegation in submitting comments strongly supporting the DEIS. Several limitations on the disposal material at the alternative preferred sites are noteworthy.

First, the sites will be used only for the disposal of suitable dredged material sediments under the application of established sediment criteria. Suitable sediments do not include industrial waste, sewerage or other types of waste. EPA also does not expect any significant contaminant or suspended solid releases to occur from suitable dredged materials.

Second, the appropriateness of open

water disposal at the sites for any specific dredging project will be determined in the future on a case-by-case basis under the authorization process governing open water disposal of dredged material. These limitations will serve to protect the fragile environment of the Sound.

As part of the EIS process, EPA evaluated a variety of alternative means for managing dredged material, other than through open water disposal. After a thorough evaluation, EPA concluded at this time postponing dredging activity is not a feasible alternative. And currently, there are no other viable alternatives to the open water disposal of dredged material from Long Island Sound.

Given these facts, I strongly urge the EPA to finalize the EIS as soon as possible so that the CLIS and WLIS sites can be designated for open water disposal of suitable dredged materials. Connecticut is currently facing a critical need to undertake a long overdue maintenance dredging in maritime transportation areas, including the ports of Norwalk, Southport and Bridgeport. Some areas have not been dredged for more than 40 years.

Maintenance dredging is urgently needed to maintain safe navigation for long-term viability of the ports and public access to the Sound. The failure to conduct needed dredging already restricted shipping traffic to a significant extent in some areas with potential harbor closings projected next year.

Failure to finalize the EIS in a timely manner and designate the CLIS and WLIS sites for open water disposal of dredged material will result in adverse economic employment and environmental impacts to the State of Connecticut and its residents. I recognize that finalization of the EIS and designation of the open water disposal sites are really first steps in the development of the comprehensive plan for the management of dredged materials that must be cooperatively developed by the states of Connecticut and New York. However, these are necessary steps that must be taken in order to ensure the continued viability of the Sound as an immense economic resource while protecting the Sound as an immeasurable environmental treasure.

Thank you.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker is Erika Swanson from the Office of Congresswoman Rosa DeLauro of Connecticut.

MS. SWANSON: My name is Erica Swanson, and I'm here to read a statement on behalf of Congresswoman DeLauro of the Third District of Connecticut.

The Long Island Sound is a defining natural resource in our region. Its waters and coastline are home to a vast array of wildlife and offer a wide range of boating, fishing, swimming and other recreational opportunities to millions of people each year. The Sound also plays a critical role in our region's economy with related maritime industries contributing more than 6 million annually and supporting more than 50,000 jobs in the area.

It is essential that the stewards of this precious resource are held accountable to making every effort to consider the wide range of environmental, recreational and commercial implications that arise when dealing with an issue like disposal of dredged materials.

The United States Environmental Protection Agency, with technical support from the United States Army Corps of Engineers, has worked diligently and deliberately during the past five years to comprehensively assess the most effective ways to meet the diversity of needs and the interests of the Sound.

The EPA has endeavored to involve stakeholders in both Connecticut and New York in this process as evidenced by the convening of an EIS working group comprised of various government entities as well as industry representatives, environmental groups and private citizens to assist in this process.

The resulting Draft Environmental Impact Statement recommends the designation of the Central Long Island Sound and Western Long Island Sound sites for long term open water disposal of dredged materials. These options were considered, along with a range of alternatives, including a no-action option.

After extensive study and a detailed evaluation of the data collected, EPA has determined that any potential environmental impacts

associated with these recommendations will be minimal and could be mitigated with appropriate site mainagement. The DEIS also recommends several limitations on the disposal of materials at these sites in order to further ensure the protection of the environment in the Sound. Maintenance dredging is necessary to sustain the immense navigational, commercial and recreational uses of Long Island Sound. It is equally necessary to ensure that these needs are not met at the expense of the environment of the Sound. The recommendations made in this Draft Environmental Impact Statement provide reasonable options that address the unique range of interests in the Sound without causing harm to this national treasure. Therefore, I would like to express my support for these recommendations concerning the disposal of dredged material in Long Island Sound.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker is Paul Pimentel representing Congressman Christopher Shays, Connecticut.

MR. PIMENTEL: I am Paul Pimentel. I would like to read a statement on behalf of

Congressman Christopher Shays.

Long Island Sound is a source of livelihood, nourishment and recreation for many in Connecticut and New York. It is a valuable resource to our state, both environmentally and economically, providing a watershed for 10 percent of the American contribution -- American population and contributing $6 billion annually to the regional economy. It is critical that we treat it well.

Dredging is necessary to maintain the Sound's safe navigation and long-term viability and vitality, but so doing requires that we identify disposal sites for dredged materials. That is why the Draft Environmental Impact Statement issued in September, which designated the Central and Western Long Island Sound sites for long-term open water dredged material disposal was and remains so critically important.

The draft statement found that any potentially adverse impacts to the Sound's marine environment associated with dredged material disposal would be minimal and could be mitigated with appropriate site management.

As the co-chair of the Congressional Long Island Sound Caucus for many years, I know the two state's legislators have always worked closely and fight a united battle to win the victories that have helped the Sound recover in the last decade. Those of us in Connecticut care at least as much about the health of our Sound as our neighbors here in New York.

With that in mind, I join the entire Connecticut Congressional Delegation and strongly support the EPA's Draft Environmental Impact Statement, which recognizes the unique value and range of interests in the Sound while taking important steps to help protect it.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. The next speaker is Steven Englebright, New York State Assembly, 4th District.

MR. ENGLEBRIGHT: Thank you very much. I have several copies here. I first will make a statement and then pass it up to you, or...

MODERATOR ROSENBERG: Whatever you would like, yes, sir. We have a box right up front.

MR. ENGLEBRIGHT: All right. Thank you for this opportunity to comment. I'll read a portion of this statement and ask that the rest be entered into the record.

MODERATOR ROSENBERG: Yes, sir.

MR. ENGLEBRIGHT: As the New York State Assemblyman, who represents a significant segment of the central portion of the Long Island Sound, a member of the Bi-State Long Island Sound Marine Resource Committee, and prime sponsor of the Long Island North Shore Heritage Act, the area of which includes the New York side of the Long Island Sound, I am greatly concerned with the prospect of long-term disposal in Long Island with dredged materials from industrial corridors along rivers and harbors in Connecticut.

It is important to realize that the bays and river mouths where sedimentation occurs and accumulates and impedes navigation essentially also acts as filters for contaminants that pass through the sediments. Harmful contaminants like mercury, copper, chromium and lead commonly in dredge from industrial areas should not be allowed to further compromise the estuarine waters of Long

Island Sound. While the DEIS acknowledges toxic accumulations at both the Western Long Island Sound site and the Central Long Island Sound site, the two locations recommended for continued dredge disposal, there is no assessment of the deleterious long-term effects, nor any mention as to how this present use may contribute to the environmental stresses currently under remediation.

The document is likewise deficient in its evaluation of alternatives to dredged disposal in the Long Island Sound dismissing, for example, sites beyond the edge of the Continental Shelf as being cost prohibitive. There is no question in my mind that the continued disposal of the dredged material in Long Island Sound will have a detrimental impact on both ecological and economic stability of the Long Island Sound estuary. I believe that the economy of both Long Island and coastal Connecticut are ultimately highly dependent on a healthy Long Island Sound environment, because of the recreational and fishing industries that are derived therefrom, and that these benefits far outweigh any of the hauling costs projected in the DEIS.

New York State has made significant investments to protect and improve the water quality of the Long Island Sound. This includes passage of New York's 1996 Clean Water, Clean Air Bond Act, which provided $200 million for capital projects to improve the waters and preserve the natural resources of the Sound, and its bays and harbors.

Since 1995, more than 43 million has been spent on local waterfront revitalization program projects. This year alone, more than 83 million in state grants is being provided for local governments to assist in implementing the Long Island Sound Conservation and Management Plan, a far-reaching agreement designed to protect and improve the water quality of the Long Island Sound, which was signed by the Governors of both New York and Connecticut, as well as by the EPA.

The EPA is currently in a position to move this initiative along in a meaningful way by discontinuing the disposal of dredged materials in the Long Island Sound. As the New York State Assemblyman for the 4th District, I fully support Congressman Bishop's Long Island Sound Preservation

and Protection Act. Furthermore, I wish to identify myself with the comments made on July 8th, 2003 in a memorandum from Rodney McNeil of the New York State Department of State, Division of Coastal Resources to Ann Rodney of the EPA in which the following observations are made:

(1) The EIS fails to show how the site designations satisfy the criteria of the Marine Protection, Research and Sanctuaries Act;

(2) The Central Long Island Sound and Western Long Island Sound Site Management and Monitoring Plans are not acceptable substitutes for a comprehensive dredged material management plan;

(3) The EIS does not reflect the importance of finding or developing alternatives to open water disposal of dredged material;

(4) The EIS must consider the short and long-term impacts from the proposed designation of two sites to handle all material dredged from tributaries to the Sound;

(5) The EIS and companion documents do not address federal and state consistency requirements properly;

(6) The list of authorized navigation

projects includes some that were subsequently deauthorized by Congress;

(7) There is no mention of what we've learned or not learned as a result of the new research and data associated with the New London Disposal Site;

(8) The importance of shipping and commercial and recreational fisheries as resources or as uses in the entire Long Island Sound area is not properly reflected.

Similarly, I endorse and identify my comments with those contained in the November 17, 2003 letter to Ann Rodney, sent and signed by Lynette Stark, the Deputy Commissioner for Natural Resources of New York State, Department of Conservation; and George R. Stafford, the Director of the Division of Coastal Resources in the New York State Department of State. This letter restates and refines the points made in the July 8 memorandum, and I have attached to the documents I provided to you copies of both of these statements.

Finally, it should be noted that the use of a temporary "emergency exemption" to the Federal Dumping Act is now something like 20 years

old, and it has been applied to the Long Island Sound in a manner that is most inappropriate during all of those years.

Any objective review of this issue within the applicable federal and state law clearly reveals that the continued use of this provision is unjustified, apparently illegal, and driven almost exclusively by narrowly considered costs. There is not only a much greater cost at stake, but also the integrity and public perception of your agency, the EPA, as the ultimate protector of our nation's natural resources. Long Island Sound is one of only a few places in our great nation deserving the federal designation as a National Estuarine Sanctuary. I implore you to take this opportunity to end the abusive use of an emergency exemption and not to make an even greater mistake by allowing this exemption to swallow the rule and make permanent mockery of the intent of Congress and our states to protect this critical ecosystem and extraordinary ecologic and economic national asset.

Thank you for your consideration. (Applause.)

MODERATOR ROSENBERG: Thank you, sir.

Thank you.

The next speaker is Ann Libassi representing New York State Senator Kenneth LaValle.

MS. LIBASSI: LaValle.

MODERATOR ROSENBERG: LaValle. MS. LIBASSI: Good afternoon.

I have a letter from Senator LaValle to Ms. Rodney, which I will read, and thank you for the opportunity to comment.

I am writing to voice my strongest objection to the selection of Long Island Sound as a dump site for dredge soil. This kind of assault on the benthic and marine environment is not acceptable, and an alternative must be found.

As you are aware, in the early and mid '90s, the U.S. Navy dumped 1.6 million cubic yards of heavily contaminated dredge spoil from the Thames River in Connecticut at the New London dump site, one-third of which is in New York waters. Your own EPA report of the components of the spoil listed numerous toxic materials, which should never have been released in the shallow 40 to 60 feet waters, which are at that location, subject to

strong tidal flow. This resulted in the cap material shifting and becoming ineffective allowing the contaminated spoil to pollute the local waters. To propose continued dumping in the Sound after so many dedicated individuals and municipalities have been working so diligently to clean up this
precious resource makes no sense whatsoever.

I urge you to consider possible upland locations, which would be more appropriate for safe disposal and containment of dredged materials. EPA's mission to safeguard the environment and your expertise in dealing with matters of pollution should preclude the selection of Long Island Sound for future dumping.

Thank you.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker --

(Applause.)

MODERATOR ROSENBERG: The next speaker, Stephen Matthews, Deputy Mayor, the village of -- I can't make this out.

DEPUTY MAYOR MATTHEWS: Pequott . MODERATOR ROSENBERG: Pequott. Thank you, sir.

Mr. Matthews will be followed by Dorothea Cappadona.

DEPUTY MAYOR MATTHEWS: I am Stephen Matthews, Deputy Mayor of the Village of Pequott, New York. Pequott is one of the smaller villages in this state, 900 people, two square miles, but three quarters of our village boundaries are defined by water, either by Port Jefferson Harbor or by Setauket Harbor so that -- and we are well aware that whatever happens in the Sound, wherever in the Sound, it will affect us sooner or later.

We are not convinced that you have done the hard work here, you meaning the EPA or the Army Corps. We think that dropping dredged spoil in the waters of Long Island Sound is the easy way out.

We do not believe that all possible alternatives for upland or along the shore disposal have truly been examined. And the Village calls upon you, number one, not to put anything more in the Sound; and number two, to examine those and examine those other ways of disposing of the dredge spoil.

We are all well aware at this time that neither the EPA, nor the Corps of Engineers, is free of influence from Washington; and therefore,

we are not certain that we can trust you to be our protectors looking at -- (applause) -- looking after our best interests. Stop this dropping of dredged spoil in the Sound and find another way of dealing with it.

Thank you.

MODERATOR ROSENBERG: Thank you, sir.

(Applause.)

MODERATOR ROSENBERG: Ladies and gentlemen, this hearing needs to be conducted in a manner that all who desire to express their views will be given an opportunity to do so. To preserve the right of all to express their views, I ask that there be no interruptions, whether you're for or against it.

Thank you very much.

The next speaker, Dorothea Cappadona, who will be followed by Jessica Ottney.

MS. CAPPADONA: My name is Dorothy Cappadona. I am the chairman of the Conservation Board of the Village of Lloyd Harbor, who I'm representing today, and also the historian and secretary of the Commsett Foundation.

I urge you to rescind the EPA's

approval to permit the dumping of dredged material from the Connecticut rivers/harbors in Western Long Island Sound and in Central Long Island Sound.

These sites already contain too much dredged material. The dredged material contain many toxics, including mercury, PCBs, all kinds of heavy metals, radionuclides, dicoden/furans, lipids, et cetera.

As you may know, Long Island Sound was quite turbulent during the storm of 12/5 and 6/03. Dumped material did not remain in situ as your document claims it would. The frequency with which these areas experience these storms and other turbulence guarantees the dispersal of these toxics repeatedly and often. Dumping at these sites is intolerable for these and the following reasons:

Your Draft EIS statement, this one (indicating), actually begins with some disclaimers and unstated assumptions, which are not valid. Despite your repeated claims that an EIS statement is not necessary, you chose to develop a document to justify your predetermined conclusions. This is not a scientific study. It does not justify your conclusions. You began with the unstated

assumption that there were no alternatives to dumping in the Long Island Sound sites, because the stated alternatives would be too costly to the people, who actually need to use those sites for other things. So you wish to continue to have us subsidize them. That's not acceptable.

The EIS document presents absolutely no data whatsoever. That is this document (indicating). Okay. Neither does it describe the methodology in any way, nor does it describe the statistics used to justify the conclusion, the statistical level of confidence, the amount of data collected, et cetera. In sum, the document simply states the predetermined conclusions, which are totally unsubstantiated.

Furthermore, the conclusions in virtually every instance admit that damage would be done to the habitat, environment and humans. However, despite these admissions, the conclusions ignore the negative impacts of dumping in favor of the convenience of the people who will pollute
these harbors and of those agencies which choose not to enforce laws regarding public safety and environmentally sound regulations.

Western Long Island Sound is a site that is on the edge of a dead zone, which has been moving east from Hell's Gate. This area has recently experienced a very serious lobster die-off. While the scientists studying the problem could not identify a single cause of the lobster die-off, they clearly understand the accumulation of the environmental problems in the region and that these have had a deleterious effect. This is precisely the problem with dumping toxics into the area. The toxics cannot be identified specifically as being the single cause of major problems such as the die-off. However, the cumulative effects of the polluting factors do cause sudden and major problems. We can't tolerate any more die-offs of species.

Both Western and Central Long Island Sound sites are within the New York "LINSHA" area, Long Island North Shore Heritage area.
Commissioner Bernadette Castro and her group of LINSHA members are dedicated to preserving the quality of Long Island Sound for recreational uses, fishing, both commercial and sport, and other benign uses. The legislature of New York State has

appropriated funds with the Governor's concurrence for this purpose. Your proposal to permit the dumping of toxics, et cetera, flies in the face of the Governor's and the Commission's plans for their state.

Toxics, such as you propose to dump in Western and Central Long Island Sound, accumulate in human tissue throughout the lifetime of an individual. Eventually, each person accumulates enough for them to have become either ill or to die. To date, no data proves exactly when these toxics affect human tissue to these levels. However, we do know from such horrible experiences as the people in Japan endured that these toxics do have certain very serious deleterious effects on the human brain, liver, lungs, et cetera. Furthermore, we do know that there are no cures for the crippling effects of these toxics.

The stricken human fetus, the child of the adult or the senior citizen may endure these horrible effects throughout the remainder of their lifetime. Insignificant? Well, that is what you claimed on this document, but not to the people who are suffering from it.

MODERATOR ROSENBERG: Ma'am, thank you very much. Please submit your entire record for the statement.

MS. CAPPADONA: You got it.

MODERATOR ROSENBERG: Thank you very much.

The next speaker is Jessica Ottney, who will be followed by Suffolk County Legislator Daniel -- Daniel Losquadro.

MR. LOSQUADRO: Losquadro.

MODERATOR ROSENBERG: Thank you.

And I would also like to thank Rochelle William for being here tonight. She is from the office of Congressman Steve Israel.

Thank you, ma'am, for showing.

MS. OTTNEY: Hello. My name is Jessica Ottney, and I am the Long Island program coordinator for Citizens Campaign for the Environment.

I would like to start out by publicly thanking Senator Englebright and Senator LaValle for their comments opposing the designation of the two disposal sites in Long Island Sound.

Thank you very much.

Citizens Campaign for the Environment is an 80,000 member not-for-profit, nonpartisan advocacy organization. We are actually the largest grass roots group working in both New York and the State of Connecticut, and we have been working for almost 20 years to protect water resources and the public health.

We are currently active on working on a number of marine protection programs, such as the Long Island Sound Study through sitting on the Citizens Advisory Committee, the South Shore Estuary Reserve, the Hudson River, the Peconic Estuary and the Great Lakes. All of these waterways in New York State are of the utmost importance to our economy.

Not only through the economic benefits they provide us through transportation, navigation, but also through things like environmental tourism, commercial fishing, recreational fishing, and private use, such as sunbathing and swimming.

With all of these things in mind, CCE offers the following comments on the Draft Environmental Impact Statement for the designation of disposal sites in Long Island Sound. The

Environmental Protection Agency and the Army Corps of Engineers are equipped in the EIS to rule out alternatives to open water disposal of dredged material, including upland disposal, containment and treatment technologies. It's stated these alternatives would greatly increase the cost of dredged material disposal and that the sites and technology must be developed further to make such alternatives possible. However, the fact still remains that disposing of dredged material in Long Island Sound puts the Sound at greater risk for contamination and greater water quality than if the alternatives stated were further explored, developed and eventually utilized.

CCE opposes the open water deposition of dredged material, which often contains varying amounts of hazardous constituents, including toxic chemicals, heavy metals, pesticides and other contaminants, which not only degrade water quality but bioaccumulate in ecosystems. CCE fundamentally opposes the capping policies both in waterways and on upland Superfund sites and, therefore, opposes the open water capping of dredged material.

The -- the argument made in the EIS was

more of an economic argument than an environmental one, and that worried Citizens Campaign for the Environment quite a bit. CCE was disappointed that the Environmental Protection Agency released an EIS that based in large part its decision to recommend the disposal of dredged material in two open water sites in Long Island Sound on the argument that
the, quote, ability to dredge and affordably
dispose of dredged material is critical to maintaining the large amount of navigation-dependent businesses and industries in Western and Central Long Island Sound region. CCE agrees that dredging harbors is necessary to provide their continued
safe use and value to local economies; however, disposal of the material that may put
those -- those same economies at risk is irresponsible and nonsensical.

The rest of my comments are submitted in writing.

Thank you very much.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker, Mr. Losquadro, who will be followed by Allen Berrien.

MR. LOSQUADRO: Good evening. Suffolk

County Legislator Daniel Losquadro from the 6th District, member of the Environment Land Acquisition and Planning Committee, and I would just like to read into the record a memorializing sense resolution that we passed unanimously in that committee introduced by Legislator John Cooper.

Whereas, the United -- the U.S. Environmental Protection Agency has picked two preferred new sites in the Long Island Sound to be designated for open water dumping of dredged spoils from inland waterways; and

Whereas, the EPA proposes to have muck dredged from the bottom of harbors, bays and rivers emptied overboard by loaded barges into a pile on the floor of the Sound, the lighter substances of which will be washed away by the current back into the Sound water stream; and

Whereas, one of the two preferred sites selected by the EPA is a ten square mile triangle in the center of the Sound due north of Lloyd Point in Huntington; and

Whereas, this dumping of dredged spoils will contaminate the waters and ruin the Huntington shoreline as a place for fishing and recreation;

and

Whereas, dumping of materials containing cadmium, silver, copper, lead, nickel, zinc, PCBs, radionuclides, lipids, et cetera, are not compatible with recreational uses; and

Whereas, the waters off Long Island Sound are the most precious resources that Long Island has to offer and dumping these dredged spoils of tainted materials emanating from industrialized ports along the coastline of Connecticut and New York into the Sound will destroy the fragile environment and ruin the character of the Huntington shoreline; now, therefore, be it

First resolved, that this Legislature hereby requests the EPA to not designate the ten square mile triangle in the center of Long Island Sound, due north of Lloyd Point in Huntington as a dredged spoils dump and allow contaminated muck to contaminate the waters of Long Island Sound; and be it further

Second resolved, that the Clerk of this Legislature is hereby directed to forward copies of this regulation to Michael Leavitt, the

Administrator of the EPA; to President Bush, to Hillary -- to Senators Hillary Rodham Clinton and Charles E. Schumer; to the Majority and Minority Leaders of the United States Senate; to the
Majority and Minority Leaders of the United States House of Representatives; and to Congressman Timothy Bishop, Steve Israel, Peter T. King, Carolyn McCarthy and Gary Ackerman.

This resolution will be going before the general session of the Legislature at Tuesday's session, and I believe I was informed Legislator Cooper will be here, and I am sure he would like to make comments on this as well.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. The next speaker, Allen Berrien. He will be followed by Rochelle William from Congressman Steve Israel's office.

MR. BERRIEN: Thank you very much. My name is Allen Berrien. I am the owner of Milford Boatworks, Milford Harbor Marina. I have been the president and the chairman of the board of Connecticut Marine Trades, and since 1986 been involved in the Long Island Sound Study.

I want to thank the EPA, the Corps of Engineers, and the scientific community that has put together this first step in arriving at a dredged material management program.

My comments I'm unable to read, because it's dark over here, but basically I just wanted to say thank you to those that have gotten us this far. Unfortunately, the pollution that you're concerned about by the public indication in your newspapers and in your radio programs is still going on, because you have beach closures every summer that is pollution that goes into the water, that pollutes the sediments that I have to dredge and maintain on my marina and out of my boatyard. And until you stop polluting, the society stops polluting the beaches and the water, you are continuing by neglect to cause me a problem.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. Thank you very much.

The next speaker is Rochelle William from -- representing Congressman Steve Israel.

MS. WILLIAM: Hello. Good evening. I am actually here representing Congressman Steve

Israel, along with the constituents of the Second Congressional District. To that end, I am here to read a prepared statement sent by the Congressman on his behalf.

As the co-chair of the House Long Island Sound Caucus, I am writing to register my personal views about the potential siting of certain dredge spoils in the Long Island Sound. I ask that my views be incorporated into the proceedings at the December 10th public hearing.

For too long, the Long Island Sound has been under assault. We have a profound obligation to protect the Sound -- as a vibrant, natural, economic and recreational resource. Meeting those goals requires that we continue to reduce nitrogen loading, restore habitat, improve living marine resources, and develop effective management plans. But as millions of dollars are set aside at federal, state and local levels to help the Sound recover from nitrogen loading, sewer overflows and dramatic fish kills, the Environmental Protection Agency and the Army Corps of Engineers are considering a plan to renew disposal sites for dredged material. The EPA must be committed to

protecting the Long Island Sound from contaminated dredged spoils that are unfit for open water dumping. It is unconscionable to spend millions of dollars to restore the Long Island Sound then to spend the next 20 years filling it with toxic sludge.

Periodic dredging and disposal of material are necessary to maintain safe navigation and marine commerce. The EPA would be severely mistaken, however, to open up waters in Long Island Sound to the dumping of large-scale industrial filth. The EPA and the Army Corps of Engineers must demonstrate that they seriously consider all alternatives to water disposal. Prior to approving any site, I believe the EPA must demonstrate to Congress and to those we represent specifically how environmental standards will be enforced and how the EPA will discourage efforts to relax or remove the Long Island Sound from the protection of federal laws.

I require the answers to questions stemming from the hearings held on this issue and the Draft Environmental Impact Statement developed jointly by the EPA and the U.S. Army Corps of

Engineers New England District released on September 12, 2003.

Namely, were any projects not approved for disposal at WLIS or other sites during these years?

How much material will be deposited at the WLIS site over the next 20 years, if this site is approved?

And where does the EPA anticipate depositing material of this site will come from?

Overall, the WLIS and CLIS sites have the highest and most diverse benthic communities and the highest associated impacts from the disposal of dredged material. Additionally, impacts on finfish and lobster resources appear to be the highest at Bridgeport and WLIS. While impacts are said to be limited in scope and other factors and certain levels of recovery are expected what is the estimated temporary and long-term economic impact to recreational sport fishermen at WLIS?

The EPA has reported that Long Island Sound lobsters continue to be under environmental stress of hypoxia, temperature, pesticides and

other factors. What effect will the designation and disposal of material at any of the four sites have on recovery efforts from the 1999 lobster mortalities?

Along with my colleagues in Long Island's Congressional delegation, I support and have cosponsored Congressman Tim Bishop's legislation to prohibit dredged spoils within the Sound under certain circumstances. Of course, under the current leadership of the House of Representatives, and given the fact that we have adjourned until late January, I am not optimistic for swift passage. That is why my constituents and I will be closely monitoring the EPA process of site designation, and why I request answers to my questions as soon as possible.

Thank you for your attention in this matter, and I look forward to the response. I will be submitting these questions and statements from Congressman Israel, to you, the gentlemen in front.

Thank you.

Thank you, ma'am.

MODERATOR ROSENBERG: The next speaker is Steven Toner, who will be followed by William

Akin.

Steven Toner, 223 Riverside Drive, Fairfield, Connecticut.

William Akin, Box 146 --

MR. AKIN: Yes. Can you hold that for me.

Good afternoon. My name is Bill Akin. I'm President of the Concerned Citizens of Montauk, an organization founded in 1970, with a current membership of approximately a thousand people. I have also been a fisherman since age six.

You've already heard many compelling reasons why designating dump sites in Long Island Sound make no sense, and I'm sure you will hear some more. Let me take a slightly different tact to fill in some of the peripheral logic.

But, first, let's be clear that this isn't just about maintenance. We're talking ultimately about deepening harbors and channels.

Now, some history. Connecticut has a rich industrial past. Unfortunately, the growth of the state's industrial base in the 19th and 20th century runs completely counter to the health of Long Island Sound and the fishing industry that

once existed here. For example, in the late 19th century, as many as 450 oyster boats worked the most productive four square miles just off the bridge -- just off of Bridgeport. They had enough deck space to cover three acres. By the early 20th century, Connecticut was home -- however, Connecticut's industrial growth was even more impressive. By the early 20th century, Connecticut was home to 3,968 factories, virtually all of which dumped waste into the rivers. Brass mills, copper mills, rubber, thread, hardware, wire and cable, whatever. The list covers almost everything that was made in America at the time.

Rocks near the wire mills were -- rocks near wire mills turned green from the oxidized copper. Not long after the oyster business fell off precipitously. Now, this sounds like it happened a long time ago, but I maintain that Connecticut's impressive industrial legacy can be found not just in the history books, but also down in the river beds and harbors we are talking about dredging and then filtering through the waters of Long Island Sound until some of it might reach the bottom. A century of industrial pollution doesn't

wash away. It's down there. It makes no sense to disturb it, much less dump it into open water.

Another thing that makes no sense is to repeal the Ambro Amendment, which logically your basically saying it's okay to dump something in Long Island Sound that you are prohibited from dumping 100 miles offshore and 1,000 fathoms, and I'm not advocating ocean dumping. There has got to be a better way to do this.

Now, let me finish by reading a short passage from Tom Anderson's enlightening book, A Fine Piece of Water: The Environmental History of Long Island Sound. The destruction of the ecosystem meant little. Industrial America could provide everything her citizens needed and wanted. An attitude implied in the 1914 Chase Company memo instructing an employee to, quote, please change the location of the Naugatauk River. This attitude was made explicit in the reaction of the memo author, who quoted the memo approvingly in the industrial history section of a four volume, quote, history of Connecticut published in 1925, and he said, Thus does modern business require nature to accommodate itself to its needs.

Have our sensibilities not progressed in 90 years?

I think the fix was in that then, and I fear that the fix is in now.

MODERATOR ROSENBERG: Thank you, sir.

(Applause.)

MODERATOR ROSENBERG: The next speaker, Rick Kral, followed by Gwynn Schroeder.

MR. KRAL: Thank you. My name is Rick Kral. I'm here as kind of a dual purpose after listening to a lot of the other speakers. I am here to represent the Connecticut Dredge Sediment Task Force, which has been a group organized through the Connecticut Maritime Coalition, the State's cluster initiative, in concert with the Connecticut Marine Trade Association and the Connecticut Harbor Management Group.

We had met earlier today and discussed the EIS, and I want to pass along our continued support. We have been involved in the process since its inception, probably four years ago, both as a group and myself personally, so have followed this along.

Personally, myself, I am a marine

owner, commercial fisherman and member of the Shellfish Commission in my town.

And I listen here today, and I am amazed that we have been at this process for four years, and some of the same comments are still coming out that we're giving -- that we had discussed in the first stages of the open workshops when we were giving a directive of trying to remain focused on what the objective of the EIS is, and I would commend the group that has worked on the EIS in trying to do that, and would say to the folks here, especially from the New York delegation, because that is what I seem to be hearing, that the EIS was meant to actually look at being able to relocate soils that are existing now in our waters. They are not being dumped there. They are existing. We need to relocate them. These soils have to meet certain standards, which you've outlined in this EIS. We understand that. What we need to all understand is that the EIS is one tool. One tool, one option. It's not the end all be all. And we have to get the folks, all of these congressional delegations, all the mayors, all the folks that are involved with this to understand

that we need all the tools, and that the DMMP is that step, that building block that can bring us -I'm sorry. The EIS is the step, the building block that can bring us to an overall DMP, a Dredge Management Plan, that will begin to look at alternatives means of dredging, because there are none in this. We realize that at the onset. There is no way to take out the highly toxic sediments designated in this EIS, a major concern. They are not going to the relocation sites. They've got to go somewhere. We need to address that.

Absolutely.

This plan does not address what happens if we don't dredge.

What are the environmental impacts by leaving these sediments in our harbors.

Many of us here, the commercial fishermen in particular, will remember when we used to see oysters in Manhattan, and small finfish way up in the harbors. Those have all gone by, because the harbors are silted in. All of the mating beds, all of the beds that were up there are gone. Why? Because we have not dredged. This EIS does not address that either. There are a lot of

shortcomings. We need to build from this, and I would hope that the New York delegation would begin to realize that and work in concert with Connecticut. And I would make that charge to them today that what we need is cooperation and understanding, that this is only one component, and we have a real long way to go. And producing unnecessary legislation and unnecessary litigation is only going to hinder our efforts to truly address the major problem here, which is that these sediments exist, and these contaminants are there. We are not getting rid of them by just leaving them there, and they are building, whether they are in Connecticut or Long Island.

The clean sediments can be put in these dredge sites. That is what we're trying to do. We are trying to alleviate the bulk of the problem. The rest of the issues we need to address, and we need to do it together, and the way we are going about it doesn't seem to be happening.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. The next speaker, Gwynn Schroeder, to be followed by Sherry Pavone.

MS. SCHROEDER: Hi. My name is Gwynn Schroeder, and I am speaking as a Council Coordinator for the North Fork Environmental Council. We are a grass roots advocacy group, located in Mattituck, New York. We have members in the townships of Riverhead and Southold, and we are submitting -- my comments tonight will be brief,

but we are submitting written comments.

On behalf of NFEC, I want to say that the DEIS is flawed, because it almost immediately dismisses alternative methods of disposing of dredged spoil. It puts in the forefront economic considerations, short-term economic considerations over the long-term health and vitality of the Long Island Sound. It's extremely shortsighted. You know, people spoke before about the importance and the job loss if we don't have waters that could be navigated.

What is going to happen if we navigate over a dead sea?

What is the economic impact?

Over the past several decades, we as a society have participated in certain behaviors that lead us where we are today, and some of those

behaviors included dumping hundreds of thousands of cubic yards of toxic dredge spoil in the Sound, and you all know where that has gotten us. It has gotten us to a place where we have an estuary that is on the verge of collapse. And I encourage the EPA to go back to the drawing board. This is a flawed plan. Dump this plan and don't dump in the Sound.

Thanks.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker, Sherry Pavone, to be followed by Arlene Handel.

MS. PAVONE: My name is Sherry Pavone. I live at 19 Fairwind Court in Northport. I am here to speak firstly for my friend, George Doll, and secondly for myself. I will read this statement from Mr. Doll.

Captain George Doll, Jr. Lives at 70 Seaview Avenue in Northport. My name is George Doll. I am a former Northport Senior Harbor Master for 15 years, a member of the Town of Huntington Commercial Fishing Advisory Council, chairman of the New York State Lobster Conservation Management Team, a member of the Atlantic State Marine Fishery

Commission, Lobster Advisory Panel, Treasurer of the Long Island Sound Lobstermen's Association and a local commercial fishermen for the past 40 years.

I strongly urge you to oppose the -- the disposal of dredged spoils in the Long Island Sound. As a Long Island Sound lobsterman, I have experienced firsthand the effects of sludge dumping. Ever since -- every winter since 1982 when the Western Long Island Sound disposal site was opened, we lobstermen have suffered the effects of dumping. Contrary to what the opponents of the dumping claim, sludge does not go directly to the bottom in a nice neat little pile. After a dumping operation, lobster traps up to one mile away are covered in silt and other visible debris, such as plastic items. I stress the word visible, because whatever else is in the sludge is also dispersed in the surrounding water.

Some former dump sites have been closed for -- that have been closed for as many as 50 years are still oozing oily substances from the sediment. The lobster resources are just starting to show signs of recovering from a massive die-off that occurred in 1999. It would be unconscionable

to allow a practice that is a strong suspect in the cause of the lobster die-off to continue, or worse, to expand.

An even worse scenario would be if someone becomes ill from consuming seafood harvested in this area. In a recent Newsday article, the EPA's New York Regional Administrator Jane Kenney is quoted as saying, "Long Island Sound continues to need our utmost care and attention."

I suppose she doesn't know that in other branches the same agency is planning to use the Sound as a dump.

Suffolk County has a proud history of protecting its maritime resources and habitat. You have an opportunity to continue that history by supporting -- by opposing the disposal of dredged soils in the Long Island Sound.

Thank you. That was George Doll.

If you don't mind now, I would like to make a statement of my own.

I am a resident, or voter, who has raised five youngsters, all of whom enjoyed swimming and sailing on the Sound. I have had the pleasure of living in Northport for over 30 years,

15 feet from the water's edge. However, I was not pleased to have observed in 1999 the many residents who lived in our village who earn their living by lobstering literally lose their lives. Many of them lost their homes as well as their livelihood. Every time I drive past the Huntington town line road, I see thousands of unused lobster traps that have been sitting unused and stored since 1999. This is really unconscionable that you could consider expanding the use of the Western Long Island Sound or the Central Long Island Sound sites. In fact, I would urge you to close those sites.

Thank you.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker, Arlene Handel, will be followed by Nicholas Fisher.

MS. HANDEL: I will be brief. I will be submitting written statements by December 10th.

MODERATOR ROSENBERG: Thank, you ma'am. MS. HANDEL: I am a trustee of the Village of Northport, and I'm here to express my concern and that of many Northport villagers, who oppose the dumping of dredged spoils into the

Sound. We are skeptical, to say the least, of the actions of the EPA in this matter. The agency is now systematically overturning so many hard-won standards that were thought to protect our environment that we find its reassurances that this dredged material will not pollute and poison our waters and marine life hollow and unconvincing. I join with all those who have spoken so wisely today against this disastrous plan.

Certainly, the intellects and brains of the people who have come up with this flawed proposal can come up with a constructive proposal to use the spoils in upland methods. The -- the overwhelming impulse that I get from -- from the plan is that it will cost too much to find alternative methods of disposal. Somehow our government always finds money to do what it wants to do in other regards. Let it find the money to properly dispose of this soil, and don't poison the Sound.

Thank you very much.

MODERATOR ROSENBERG: Thank you, ma'am. The next speaker, Nicholas Fisher, will be followed by Steven Wachter.

MR. FISHER: My name is Nicholas Fisher. I am a professor of marine sciences here at Stony Brook University, and my expertise is on the interaction of pollutants with marine organisms, and I would like to thank you for the opportunity to comment.

I think a principle that should be guiding us all on all sides of the matter here is that chemicals are not human beings, and they don't have human rights. They should not be considered innocent until proven guilty. Quite the opposite. They should be considered guilty until proven innocent, particularly in terms of disposing of large quantities of potentially toxic chemicals in open -- in open waters.

So in the interest of determining how guilty or innocent some of these contaminants are, I just would like to make a few quick points. I haven't read the Environmental Impact Statement, because I just learned of it through this hearing this afternoon. So consistent with Congressman Bishop's comments, many of us were really unaware until the last minute about these proceedings.

So not having read the Environmental

Impact Statement, I can just make a few comments. I realize that there are standard types of logical protocols to evaluate the likely effects of contaminants on organisms, but these tests should be realized are very simplistic and often very questionable. They primarily focus on a few toxic effects, rather than the sublethal effects that are much more likely to occur in the real world, in natural waters. Moreover, the toxic effects of contaminants are generally evaluated only from the dissolved phase, and yet for -- in tests with animals, and yet we know that animals eat, and they can -- they can accumulate contaminants from their food, as well as from water. And in the last five years, we have realized that for many crustaceans, for example, the contaminants that are accumulated from food can be three orders of magnitude more toxic than the contaminants taken in; yet, these are largely not considered in current toxicological protocols.

Furthermore, sometimes important contaminants simply just aren't measured, and I can think of a case, for example, where surprisingly dioxins and certain long-life radionuclides were

not evaluated in New London sediments that were disposed of in Long Island Sound. And while some of these contaminants may not affect the marine organisms necessarily, they are bioaccumulated and can have public health consequences for people who consume seafood.

The point I'm trying to make here is that the tests on which the EIS conclusions are drawn are often very incomplete, and there is reason to question how reliable these conclusions are. This is not to say that disposal of dredged material would necessarily have a detrimental impact on Long Island Sound, but I would urge that good science and a thorough airing of the analyses and tests be done before there is approval of dumping of contaminated materials in coastal waters near large population centers.

MODERATOR ROSENBERG: Thank you, sir. The next speaker, Steven Wachter or Wachter. He will be followed by Jon Cooper from the Suffolk County Legislature.

MR. WACHTER: My name is Steve Wachter representing Brewer Marina, Port Washington, New York.

I have a lot of different comments here tonight. I have never met a marina or a boatyard operator, who isn't concerned about the environment and clean water.

My facility consists of boats ranging anywhere from 15 to 170 feet, both pleasure and commercial.

If we don't do something soon about relocating dredged sediment in Long Island Sound, we are going to see Long Island Sound become a lot like the Great South Bay where boating will still exist, but it's going to exist at a much lesser degree. Water depths of three or four feet will probably be the norm versus eight to ten that we have had in the past.

I've heard people talk about the lobster kill in 1999, and I myself was a lobsterman, and I know that in the '90s, we have been dumping in Long Island Sound disposal material or relocating material for over 20 years. In the '90s, the lobster population, or the harvest was probably the healthiest it has ever been, and only after 20 years of dumping something happened in Long Island Sound, so I kind of don't feel it's

right to point the finger there.

Again, what's going to happen in the shorelines of Northport Harbor and Oyster Bay Harbor and Port Washington and Port Jefferson is going to be the marinas that do take care of the public are going to turn into condos, which is already happening on the South Shore of Long Island. It's happening on the North Shore of Long Island. It's happening on the Connecticut shoreline. So something has to be done here in the near future.

And I thank you. I commend the efforts of both the EPA and the Army Corps.

MODERATOR ROSENBERG: Thank you, sir. The next speaker Jon Cooper, 18th District, Suffolk County Legislature. He will be followed by Christopher Nuzzi.

MR. COOPER: Good evening. I represent the 18th District, which is basically the Town of Huntington, and that's the district that is closest to the WLIS site. I would like to thank you very much for inviting me to speak here today.

Few topics have concerned me more as a county legislator than the EPA's proposal to

designate two long-term sites for dredged material disposal in the Long Island Sound.

The Sound is home to more than 170 species of fish and over 1,200 species of invertebraes, in addition to a wide variety of shoreline wildlife, all of which would be adversely affected if toxins were to pollute their habitats.

We all know that the Long Island Sound has a limited capacity to absorb and recycle materials naturally. We simply cannot just stand by while this crucial natural resource is placed in jeopardy by the combined threats of pollution, bioaccumulation of PCBs, and other toxic materials and the potential release of significant amounts of bacterial pathogens, all resulting from the continued dumping of dredge spoils in the Long Island Sound estuary. The consequences of capitalized ecosystems will be devastating to our environment and the economy of Long Island, particularly since commercial shellfish beds and tourist recreation areas are located in close proximity to the proposed disposal sites.

The vast majority of the dredge materials will not even be from our own rivers and

harbors. Most of the spoils, the EPA acknowledgese, will come from badly polluted Connecticut waterways loaded with chemicals and heavy metals.

It should come as no surprise that Connecticut officials have been pushing for repeal of the Ocean Dumping Act and are in support of the EPA's proposal. What better reason do we as Long Islanders need to oppose it.

I want to make it clear that my opposition to this proposal does not mean I am against dredging our waterways. I remain fully committed to keeping our harbors safe and navigable, but these two positions need not be mutually exclusive. Under the requirements of the Ocean Dumping Act, the EPA must explore all alternatives to the open water disposal of dredged materials in the Sound, including beneficial reuse and landfill closure projects, detoxification for beach replenishment, and ocean dumping beyond the edge of the Continental Shelf. Although most of these alternatives would be more expensive in the short run than just dumping the spoils in the middle of the Sound, we simply cannot put a price

tag on environmental degradation of an entire ecosystem. From a long-term perspective, that unquestionably would be the more costly road to take.

Thank you very much.

MODERATOR ROSENBERG: Thank you, sir. The next speaker, Christopher Nuzzi -(Applause.)

MODERATOR ROSENBERG: He is representing Supervisor John LaValle from the Town of Brookhaven.

MR. NUZZI: Good evening. Thanks for the opportunity to comment, first and foremost. Again thanks to the EPA for allowing -- for calling for this hearing again and for allowing additional public input into this matter and scrutiny in regards to the plan and for additional discourse. And as you can see by the number of people here, who are commenting, there is concern that needs to be addressed, and I hope that that will be done as we -- as you guys move forward and hopefully in partnership with the local representatives and residents here.

I would like to also read a brief

statement by the supervisor into the record. It's a letter to Ms. Ann Rodney from the EPA.

I am writing you in regards to the United States Environmental Protection Agency's plan to utilize Long Island Sound as a repository for dredge spoil over the next 20 years. As you may be aware much of the spoil would originate from Connecticut's industrial harbors and could produce negative effects on the water and the ecosystem within. Any possible pollution to the Sound would not only have negative environmental consequences, but could also contribute to economic hardship for those who rely upon it for income. Ranging from commercial fishermen and lobstermen to the many tourism-related interests within our region.

I implore you to reconsider your plan to institute this initiative until such time that all concerned groups are confident that there will be no detrimental side effects suffered. Please adhere to the desire of the many civic representatives, residents and elected officials of this area and withhold decision before it is too late.

Furthermore, I would request that there

be further discussion and input on the possibility of alternate methods and/or sites of disposal. I thank you for this opportunity to comment on this important subject, and please don't hesitate to contact the supervisor if he can be of assistance
on this matter.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. The next speaker is William Tursellino. MR.

TURSELLINO: Tursellino.

MODERATOR ROSENBERG: Tursellino. Thank you. He will be followed by Louise Harrison. MR.

TURSELLINO: Good afternoon, gentlemen. Thank you for extending the comment period.

I represent the Long Island Chapter of Surfrider International. We have 500 members, and the International has approximately 29,000.

I came here to state our opposition to designation of disposal sites anywhere in Long Island Sound or the open ocean. The research presented is essentially a snapshot of damage already done to what is a vibrant benthic and pelagic community.

This designation will guarantee that alternatives of open water dumping will not be actively pursued, nor ever become economically viable.

By having a cheap alternative in Long Island Sound, no competition will ever come to the fore.

If dredged material is not suitable for beneficial reuse, then it is our position that it should be removed, detoxified, placed in a capped environment on land.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. The next speaker, Louise Harrison, followed by Sarah Anker.

You can just put it right in that box. Thank you.

MS. HARRISON: Good evening, and thank you for the opportunity to address you tonight. In addition to this statement that I'm handing in, I'd also like to express the Friends of the Bay fully supports the comments made tonight by Representative Timothy Bishop, State Assemblyman Steve Englebright and the Representative from

Senator LaValle's office.

My name is Louise Harrison. I am the Executive Director of Friends of the Bay, and on behalf of the Board of Directors and the community sponsors of our organization, I would like to thank you for extending the comment period and giving us a chance to address you tonight.

Friends of the Bay is a nonprofit environmental organization in Oyster Bay, New York. We have over 2,000 supporters, most of whom live in the watershed of Oyster Bay and Cold Spring Harbor estuary.

Our mission at Friends of the Bay is to advocate for the protection, preservation and integrity of the Oyster Bay and Cold Spring Harbor estuary, from Mill Neck Creek in Bayville to Cold Spring Harbor, and its watershed. Our primary focus is water quality.

Sorry. I have asthma, and I'm having a little trouble right now.

As you must know, major portions of the Oyster Bay-Cold Spring Harbor estuary are designated as a National Wildlife Refuge. The remaining portions have been designated by New York

State as a significant coastal fish and wildlife habitat. The estuary together with its watershed has been identified by New York as an outstanding natural coastal area, which has been renamed recently as a regionally important natural area.

In 1997, New York produced the Oyster Bay-Cold Spring Harbor Resource Management Plan to address the regionally important natural area. This was completed in a cooperative effort that included many agencies, including the U.S. Fish and Wildlife Service, the New York State Department of State, the New York State Department of Environmental Conservation, the Towns of Oyster Bay and Huntington, the Villages of Center Island, Bayville, Lattingtown, Mill Neck, Matinecock, Upper Brookville, Oyster Bay Cove, Cove Neck, Laurel Hollow and Lloyd Harbor. This plan reflects a consensus on the issues and the opportunities for resource management in the watershed of our estuary. There is broad agreement on the overriding importance of maintaining high water quality in the estuary, because of its high economic value to a shellfishery of statewide importance, as well as other fisheries, property

values, nearby residents, the value of clean water to marine recreational activities, tourism, wildlife and quality of life for people.

I am not going to go into the comments about the Long Island North Shore Heritage Area that I made in the document, because Senator Englebright covered that quite well, but I would like to reaffirm what several people have said tonight. New York has made great strides and great investments in improving water quality in Long Island Sound and its contributing smaller estuaries. The battle against hypoxia is being fought. The reasons for massive lobster die-offs are being investigated. Scientific research, public outreach and education, new emphases on tourism and waterborne transportation alternatives increases toxic contamination of salt marsh sediments, attenuation of nitrogen loading from sewer treatment plants and combined sewer overflows all are subjects of huge public and private investments and of measurable improvements.

We can't conceive -- I'm sorry that my time is running out, but I would like to finish this statement. We can't conceive why the Corps

and the EPA would choose to select disposal sites for large quantities of dredge spoil for the long-term in this precious estuary while summarily dismissing with only vague references to cost, alternatives that would pose less of a risk to the estuarine environment, its inhabitants and its nearby human populations. It was with surprise and dismay that we learned that alternatives with less impact on the environment were screened out of the analytical review process before your analytical review process even had begun. Such alternatives as upland disposal, treatment and reworking of the dredge material into commercial products and beneficial reuse of dredged material should not have been set aside, as they were from the outset. Rather, these alternatives should have been the subject of this EIS. It's not good enough for a federal document to say some of the statements that were in this document, such as there were no specific sites of sufficient capacity. There were -- limited opportunities exist for development of confined disposal facilities in Long Island Sound waters as a long-term regional site. Open space is not available for drying and rehandling of

dredged material. And so on with no substantiation.

MODERATOR ROSENBERG: Thank you, ma'am. Please submit the entire statement for the record. There are many that need to speak, and our stenographer is letting me know that she needs to take a break.

Our next speaker will be Sarah Anker, who will be followed by Christopher Squeri; and after Mr. Squeri, we will need to take a 15-minute break.

MS. ANKER: Hi. Actually, I have two -- two statements to read. One is from the Long Island Farm Bureau. I would like to read their statements. It's fairly brief.

It's a statement by Joseph Gergela, Executive Director of Long Island Farm Bureau.

Long Island Farm Bureau is strongly opposed to the dumping of 21 million cubic yards of dredge spoils by the U.S. Environmental Protection Agency into the Long Island Sound. Long Island commercial fisheries and aquaculture industries provide millions of dollars into our local economy and represent millions of dollars in investment in

those activity. Marine industries are dependent upon good water quality in the marine environment to sustain the industries ability to bring quality seafood products to consumers. It is not acceptable to jeopardize these important industries by allowing noxious pollutants into the Long Island Sound.

And that was one, and one to go. And here's my statement.

This is a letter I wrote. It appeared in some of the local and regional papers. After recently reading an article in my local newspaper, I am writing to acknowledge my concerns regarding the EPA's proposal to prolong the dumping of dredged material in Long Island Sound.

Why should the EPA not allow for additional dumping of toxic pollutants in the Sound? Let me suggest a few answers.

Long Island has one of the highest cancer rates in the country. Many residents feel the additional burden of exposure to carcinogenic material may increase the risk of cancer and other diseases.

Long Island's clamming and lobster

industry have suffered severe losses due to the decline in clam and lobster harvest. Scientists have determined that environmental pollutants have contributed to the decline and degradation of aquatic sea life.

Please consider the long-term effects of the dredged material in the Sound, rather than the short-term goal of eliminating waste material by which may end up on our shores. Congressman Tim Bishop's recently sponsored bill, Long Island Sound Preservation Protection Act, is overwhelmingly supported by his constituents and congressional colleagues. This bill will ban the EPA from implementing its current plan to dump more than 20 million cubic yards of dredged waste into the Long Island Sound over the next 20 years. The bill allows for traces of contaminated material, but will not allow the current levels of toxins, including mercury, copper, chromium and lead and God knows what else.

The EPA was created to protect human health and safeguard the natural environment. Long Island Sound may seem vast and infinite; however, it's what we don't see that may affect our health

and environment the most.

I also would like to read -- do I get more time since reading the other letter, I hope? No. Are you sure?

MODERATOR ROSENBERG: Please, go ahead. MS.

ANKER: Okay. Thank you. I will try to --

MODERATOR ROSENBERG: Try to squeeze in as much as you can.

MS. ANKER: All right. It's not too bad. Okay. These are some of the negative impacts of dumping the dredged material. According to Suffolk County Department of Environmental Protection: Monitoring studies have shown that the Long Island Sound estuary is a stressed water body from pollution sources and development, including contaminated sediment containing elevated concentrations of toxic chemicals from dredge spoils. These accumulated stresses have resulted in severe environmental impact to the Sound, including depressed levels of dissolved oxygen, long-term decrease in living resources and the near-catastrophic decline of the lobster industry.

According to environmental tests

conducted off Eaton's Neck, at a location similar to the proposed dump site, dissolved oxygen levels are significantly depressed near the Sound bottom. Dredge spoil is a likely contributor to this. Negative environmental impacts cited by the EPA's Draft Environmental Impact Statement include: Releases of contaminants to the water column and the burial of native species, long-term cumulative effect to aquatic organisms, reductions in species diversity, a long-term impact to fish and shellfish due to the changes in habitat and food resources.

Regarding the impact to fish and lobster at an existing Western Long Island Sound dump site, the DEIS concludes, Periodic habitat and migration disruption within the WLIS alternative will continue to result from disposal operations.

Just a couple other things.

MODERATOR ROSENBERG: Could you please submit those for the record, or --

MS. ANKER: Okay. Can I just make one more statement? It's one small paragraph.

MODERATOR ROSENBERG: Okay.

MS. ANKER: I have lots of questions, but I will save those for later.

MODERATOR ROSENBERG: All right.

MS. ANKER: We are the first link in how we affect our environment, and we are the last link in how it affects us. Occasionally heavy metals and toxic discharge from dredged material ends up in our sealife and seafood we eat. We are the end of the food chain. All seafood coming from the Sound ends up in ourselves and our children. When we become -- we then become living filters, filtering out the contamination we create. The cost of finding other alternatives to dumping dredged spoils to the Sound may prove to be more costly; however, the health and well-being of our environment is worth the investment. The estimated value of the Sound to the local economy is $5.5 billion per year. We must invest and protect this economic resource. Long Island Sound is dangerously becoming so stressed that it may eventually no longer maintain safe and productive sealife. This is not the time to continue to add insult to injury by adding the additional burden of contaminated dredge waste to the Sound.

Thank you.

MODERATOR ROSENBERG: Thank you. Thank

you, ma'am. Thank you very much.

And our last speaker before the break will be Christopher Squeri, and then we will take a short break for the stenographer.

Sir.

MR. SQUERI: I would like to thank the EPA, the Army Corps of Engineers, and all the agencies, organizations and individuals that have worked on this Draft EIS.

My name is Christopher Squeri. I am the Executive Director of the New York Marine Trades Association. We represent over 1,200 marine businesses on Long Island and New York City. We are the oldest marine trades, and we represent over 10,000 employees in this industry.

First and foremost, personally, I am a boater. I am a fisherman. I belong to several fishing organizations.

As an association, we are very concerned about environmental needs, our clean waters, fishing, all the things that make boating and fishing great. We do promote environmental agendas. In 2000, we worked with Congressman Lazio, to get the Long Island Sound Act passed,

which helps municipalities clean up waterways and refit their sewer systems so that we do help curtail pollution that affects the Sound greatly. We have been involved, both the NYMTA, myself and members in EIS for over four years now. At the time, four and a half years ago, all were invited, all organizations and individuals were invited. There was no exclusivities.

Today, I find myself here after the second postponed hearing, as someone who has worked on this, I am ago aggravated by the delay, and also the postponement. There are also some false statements being made. Nowhere in the EIS that it says we are doing toxic dumping, okay. All materials must meet federal requirements. That is stated on page ES2 of the executive summary. I would like everyone to realize that.

Also in the executive summary lobster die-offs. Lobster productivity is generally higher at the sites. Recovery is likely. That is on page ES12. Both New York and Connecticut waterways may need these sites to dredge in the future.

Access to the Sound will be cut off and affect thousands of jobs, families and lifestyles.

Now, again, our economy, our marine industry depends on clean water, fishing, boating. If we have been working on this EIS study for the last four and a half years, I do not want something bad happening. Again, along the words of toxic dumping, spoils is bad. Nobody is saying we are putting bad. We are taking materials out of the bottom of the waterways and placing them back in the waterway, and they have to meet federal requirement. I don't understand. These are requirements that have been brought forth by the agencies, approved by our elected officials and leaders.

We support the EIS and look forward to working on the sites in the Eastern Long Island Sound and moving forward with this. Again, we need clean water, and we need to find a balance so that we can all move forward.

Thank you very much, and I thank you for all your hard work.

MODERATOR ROSENBERG: Thank you, sir. It's now 22 after 6:00. We will reconvene at 20 of 7:00.

Thank you.

(There was a short break taken.) MODERATOR ROSENBERG: Okay. Ladies and gentlemen, the next individual to provide comments will be Michael Griffin, State of Connecticut Harbor Master, who will be followed by John Pinto, Norwalk Harbor Management Commission.

MR. GRIFFIN: Thank you for the opportunity to comment this evening, sir.

I'm here tonight speaking as a friend of New York State and the people of Long Island. My message is my concern for the safety of Long Island's environment and its economy, both threatened at this time by a potential oil spill resulting from a barge or a tanker going aground as a result of reduced underkeel clearance.

As you said, my name is Michael Griffin. My credentials are I am the State of Connecticut Harbor Master for Norwalk, Connecticut, for the past 12 years; Director of the Connecticut Harbor Management Association, and Chairman of Norwalk's Health Committee, Harbor Emergency Local Planning.

Norwalk presently receives barges carrying 20,000 barrels, or 1 million gallons of

home heating oil. Bridgeport, New Haven received tankers carrying 250,000 gallons of -- 250,000 barrels -- excuse me -- or 14 million gallons. The North Shore of Long Island is approximate 10 to 11 nautical miles from the Connecticut shoreline. I believe that the designation of this dump site is imperative for the safety of both the Connecticut shore and the Long Island Shore. I believe that it's necessary for us to keep open dialogue to get this site designated as soon as possible.

Deliveries are made presently in Norwalk with reduced underkeel clearance by five or six feet. Tankers are coming in. Barges are coming in on as close to the high tide as they possibly can. If a tanker goes aground, such as what occurred back in February of 2002, there is a great potential for the ebb tide with a northerly wind to carry that oil quickly to the Long Island Shore.

Those are the extent of my comments, and I would like to point out that I think that it's imperative for both New York and Connecticut to sit down and have continued dialogue to get this site redesignated.

Thank you, sir.

MODERATOR ROSENBERG: Thank you, sir. The next speaker is John Pinto, Norwalk Harbor Management Commissioner.

MR. PINTO: Thank you very much. My name is John Pinto. I am Chairman of the Norwalk Harbor Commission. I would like to certainly thank the EPA and the U.S. Army Corps for their document, which I feel is quite necessary and very scientifically sound from what I read.

Norwalk Harbor is one of the most important centers of recreational boating, commercial shellfishing and numerous other water-dependent activities that enables Norwalk to remain one of the strongest centers and engines of economic development in Southwestern Connecticut. Its of utmost importance to Norwalk and Southwestern Connecticut that regulatory challenges for disposal of dredged material be resolved to keep our region a vibrant economic center of growth. The lack of practical cost-effective solutions for disposal of dredged material in an economically and environmentally sound and cost-effective manner has been a long-standing obstacle to the successful completion of dredging

projects in Connecticut.

Norwalk Harbor Management Commission and the Office of the Mayor are pleased that the EPA has defined management goals and priorities and developed scientifically-defensible procedures for management and monitoring the proposed designated areas for dredged -- dredging projects.

The need to dredge Norwalk has been well documented, and the material has been deemed suitable for unconfined open water disposal.

No other economically feasible alternatives are available for the use of this material. Beach nourishment is impractical, because the sediments are fine grained and not coarse grained that is required, certainly for beach replenishment.

Norwalk's master plan of economic development integrates Norwalk's goals and objectives regarding tourism, public access to its shores, water transportation, commercial and industrial marine economic development, and remediation of environmental impacts from infrastructure. The identification of the need for maintenance dredging of the federal navigation

projection, marinas and anchorages, to implement the master plan of Norwalk underscores the importance of designating Central Long Island Sound as a cost-effective environmentally sound disposal option for dredge material.

I was certainly quite dismayed that the EIS comment period has been extended, because it appeared to allow perhaps as what I heard earlier this afternoon, or this evening, is that more heat has been shed than light on the subject; and certainly given the scientifically sound document that you have that we have to believe certainly the science that went behind this, this important document. Certainly, we support the need for designating these sites as for proper disposal of dredged materials.

MODERATOR ROSENBERG: Thank you, sir. The next speaker, David Conover, who will be followed by Carol Morrison.

AUDIENCE PARTICIPANT: David had to leave.

MODERATOR ROSENBERG: Carol Morrison, MS.

EVANS BLUMM: Carol Morrison isn't here, but I'll take her place.

MODERATOR ROSENBERG: Please come -- please come down to the microphone, state your name.

MS. EVANS BLUMM: Okay. Carol Morrison is a former president of CCOM had to leave.

MODERATOR ROSENBERG: And you're speaking for her. Please come up --

MS. EVANS BRUMM: No, I'm not speaking for her. I'm speaking for myself. My name is Julie Evans Brumm. I am a former commercial fisherman put out of business by PCB contamination at the striped bass fishery. Today, I am a grass roots coordinator for the Friends of Long Island Sound. It's an organization consisting of other organizations like Fisher's Island Conservancy, North Fork Environmental, Castle, Concerned Citizens of Montauk, the Literal Society, Clean Ocean Action and others.

So I would like to make some specific comments. We heard a lot in the beginning about how the DEIS was done, but we didn't really hear much about what the results were, so if I could make some comments about -- about -- well, first let me say that we support Congressman Bishop and

Senator Englebright's remarks fully; and of course, we're grateful for this opportunity to speak on the subject, because it is a subject dear to our hearts. Many of the organizations involved have been involved with us for more than 10 years.

Ecological evaluations of pollution and bioaccumulations of the proposed sites are insufficient; and therefore, designation of the sites is flawed and premature. To assess the potential for adverse affects of the existing and the proposed sites, EPA performed a number of studies and analyses; however, this work failed to analyze the existing information using most up-to-date resources, and did not recognize the threats from existing impacts.

Because the dump site should not be dessicated -- designated in Long Island Sound, because impacts are already evident at the proposed dump sites due to historical dumping activities; for example, PCBs on average twice as concentrated in benthic worms at the Central Long Island Sound site in comparison to PCBs in benthic worms at the reference site.

The EPA recognizes that PCBs are

present and bioaccumulating in the food chain. They did not conclude there was an existing threat due to PCB contamination at the sites.

Lobster tomalley levels are not assessed even though data are available. The effect levels for some toxins are based on outdated literature. Effect levels are not protective of the food chain, and most certainly do not fully account for trophic transfer and magnification, as well as chronic sublethal effects.

Reliance on US EPA Water Quality Criteria to devise affect levels for sediment dwelling organisms is flawed -- is a flawed approach. More protective ecological effect levels that are available were not used.

EPA also failed to accurately assess and determine effects from disposal of organic rich materials into Long Island Sound and contributions to hypoxia events, as discussed in more detail in another point here, but that is basically it.

EPA has not adequately assessed existing human health impacts of the sites. The DEIS fails to note that there were ongoing fish consumption advisories and bans for lobster

hepatopancreas in both Connecticut and New York. Data as presented by the US EPA shows clearly that all levels of PCBs in lobster hepatopancreas are high throughout Long Island Sound, but especially
in lobster from the proposed CLIS dump site. The contamination is not limited to lobster but, in fact, elevated benthic resources that provide food to species, such as lobster, especially at CLIS. Lobster from CLIS had over two parts per billion total PCBs in their hepatopancreas, a concentration exceeding current FDA standards. EPA failed to assess these levels of PCBs in lobster and hepatopancreas from a human health standpoint. The failure by EPA to completely evaluate risk is counter to environmental protection and laws to protect these resources.

The MPRSA states that materials must not cause significant undesirable effects, including the possibility of danger, associated with their bioaccumulation of marine orgasms [sic]. The cumulative effect of perpetuating an existing contamination is an undesirable and unacceptable effect.

MODERATOR ROSENBERG: Thank you. Thank

you, ma'am.

MS. EVANS BRUMM: I have more. Essential fish habitat --

MODERATOR ROSENBERG: Well, ma'am --

MS. EVANS BRUMM: Oh, you need to hear this stuff. I mean these are --

MODERATOR ROSENBERG: Please submit all this for the record. Thank you very much.

Our next speaker is Roger Tollefsen. MR.

TOLLEFSEN: Yes. Thank you. Roger Tollefsen. I'm president of New York Seafood Council, which is a marketing commercial organization for seafood, instrument and products.

One of the dangers of being later in the presentation here is to kind of get some of a respective view of what has been going on today, and I had heard that there was a polarization between two groups. I think everybody kind of agrees that we need to dredge, but the issue that is being contested here is what we do with the spoils. So there is a common ground. It's pretty cool to reach some common ground. The rest of it needs to be discussed. This public meeting is being held to encourage comment about your

proposal, to go back and allow expansion or continuation of dump sites throughout the Long Island Sound estuary. However, as we look forward, it's also perhaps about our society who struggles to combine common sense with science; and unfortunately, our common sense seems to be losing. The amount of potentially toxic material that the EPA is preparing to dump into our estuary is 21 million cubic yards. Probably even more. Most people have a hard time visualizing that amount, especially when it is seen and disappears below the surface of the Sound. If that same material was spread out over land, however, it would blanket a 20 square mile area with a foot of sludge. It is common for dredged material to have concentrations of toxins that would not allow the sludge to be disposed of on land unless extraordinary cleanup of contaminated -- containment measures were taken. One can look at the consequences created by the PCBs at General Electric leached into the Hudson River. Just shutting down a traditional fishery for two decades and continuing, it may cost over $500 million to remove about 150,000 pounds of PCBs as part of the Superfund cleanup effort.

By comparison, it is not uncommon for material dredged from harbors to contain 50 parts per million of PCBs. This may sound like a small amount. It may even be toxic; however, because of the quantity of dredged material that is proposed to be dumped into Long Island Sound estuary, the EPA could be dumping into the Sound an amount of PCBs equal to what is planned to be removed in the entire Hudson.

Many of us would expect that scientific evaluations had been done to determine what, if any, adverse affects may occur in the Sound's living resources based upon the projected dumping. However, the complexity of the Sound with all of the unknown effects of how toxins react in concert with each other leaves us with a lot that we just do not simply understand.

For instance, only four years ago the researchers found that lobsters would die from a concentration of pesticide 100 times lower than what it previously determined as safe. This fact was only uncovered after a major die-off of lobsters. Since losing over 90 percent of that industry on Long Island Sound for lobsters, it

occurred in just a remarkably short time of five years, researchers have concluded that the die-off is likely a combination of factors. Some of these factors may possibly control, while others, such as long-term temperature increases may not easily be determined.

One area of scientific concern was effect that toxins had on lobsters. Even though more research will surely come, how come we ignore these findings and propose increased toxins to the Sound. Scientific research is tremendously important and should be encouraged, but we must realize that results of the controlled experiments have to be assimilated with the observations and bundled with common sense before successful plans are initiated. Common sense would demand that we do not dump toxic material into a national estuary. Common sense would encourage us to ask the living resources to tell us if everything is all right. Common sense when joined with the observation of people who work our waters would tell us that we are not doing very well. Before it can even consider adding further stresses to our Sound a healthy and diverse environment which forms a solid

basis of our community must be in place.

I would like to thank especially Congressman Bishop for exceedingly questioning that the EPA, and also for the EPA for agreeing to extend this deadline for comments. Without this help and your agreement, this would not be possible.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. The next speaker Doreen Guma, who will be followed by George Doll.

MS. GUMA: Hi. My name is Doreen Guma. I live in Port Jefferson basin. I am just a person who lives here. I have no vested and economic interest in the project. I have not seen EPA's notice regarding the public hearing, although I'm sure that you guys followed the notification guidelines that seem to be flawed. The only notice, the best I could deduce, it was in this Federal Register, not public or legal notice, that even by chance somebody might have noticed.

In addition, the people are busy. They work two jobs. They have kids. You can see the turnout here was just an abomination, quite

frankly. I'm the only person, not a group, not a vested interest that I've heard so far. Anybody that I said, hey, did you guys know that this is what the EPA was planning to do, never even heard of the project, never even heard of the plan. We are the taxpayers. We live here. We should know, not the people who need to make the harbors work. And we have a boat, and I understand that you have to get in and out, but not the people whose economies are going to benefit.

In addition, I have called after the -- Senator Englebright's office, who quite frankly didn't know until last Friday, when I believe someone sent a fax to his office. Also people in Town didn't even know about that. So our elected officials didn't even know, which is really really sad. These are the people that are representing me.

The course of the short notice, I just found out about this like on Monday. I didn't really have no chance to read the EPA's information on the website, but the following observations I would like to just reiterate. The information in the hall stated that between '82 and 2001, 85,000

cubic yards was put into the Long Island Sound. It's now proposed that over 20 million cubic yards over the next 20 years would be put there. I hope that that is correct. That's just what I saw on the sign.

The comments show that Connecticut would get a great benefit, especially those of Joe Lieberman, which I will not be voting for president if he becomes the candidate. 18 Connecticut sites are slated for dredging, compared to nine on Long Island, which it seems from the slides that you saw that only two were federally-backed projects. If I'm wrong, I apologize. Connecticut stands quite a considerable economic benefit from this project.

Brookhaven has publicized tourism. In my mind, you know, maybe we should have a new slogan. It should say, welcome to our beaches for swimming, fishing, boating. Just don't mind the contaminated dumping of the toxic chemicals in the middle of Long Island Sound.

After the comments I want to just applaud Senator Englebright, where he said it didn't make sense to move contaminated matter from one place to another. It doesn't make -- doesn't

it make sense to realize this would only further move the contamination?

I know that Christy Todd Whitman had had that problem -- I'll be done in two seconds -- with the Hudson, and they had that whole should we dredge it, and move it, or should we leave it. It's filtering.

And just one other quick thing. As I was sitting here the last, almost last speaker Julie Evans, she made a point regarded fish advisories, and you know what, I never really thought about it, and I didn't really know quite frankly until the other day that there was any other stuff dumped in Long Island Sound, but we fish, and I had fish advisories. I don't eat striped bass. I am really more concerned now with my family eating any fish that we catch from Long Island Sound. And that's really, really sad.

Thank you for your time. I would really appreciate if possibly somehow you guys could get information out to the normal working people, and maybe they would care. This place should have been filled with people backing out into the hallways. Seriously.

Thank you.

MODERATOR ROSENBERG: Thank you, ma'am.

(Applause.)

MODERATOR ROSENBERG: Our next speaker is George Doll, who will be followed by Richard Amper.

MR. DOLL: My name is George Doll. I am a commercial lobsterman from Northport. I am here representing the Long Island Sound Lobstermen's Association, which is an association made up of approximately 250 what were full-time lobstermen. Now most of them are in some other profession.

I am -- the Lobstermen's Association is opposed to any dumping in Long Island Sound, whether it be considered clean, or whatever. I'm personally familiar with the Western Long Island Sound dump site. I fished there before it was designated a dump site. Once it was designated a dump site, I can no longer fish there. It's just a pile of mud now. That was a productive lobster area. The lobsters that were there when you started dumping are buried and long gone. Other lobsters cannot or will not move into that area.

The bottom is not whatever it is that they need. They don't go there any more. They are around the edges of it. Lobstermen are providing -- catching and providing a food so people are eating what we catch all around these dump sites. And I mean this concerns us. The lobsters that were there and got buried were the first casualties. The lobstermen themselves are the second casualties.

Two miles to the west of the Western Long Island Sound dump site is the largest set of hard clams in probably the past 20 years. They are being harvested and consumed. So we are very concerned about what is coming out of these rivers; and from being here listening tonight, it has occurred to me that this is -- it's like big business, the boating industry, these tankers, the oil companies and everything, needing deeper water so they are taking the stuff and dumping it on little business like the commercial fishermen. And logic, you're taking material from areas that are uncertified for shellfishing, and you're dumping
out in areas that were clean. It just doesn't make sense to me.

Thank you.

MODERATOR ROSENBERG: Thank you, sir. Thank you very much.

The next speaker, Richard Amper, will be followed by Geoffrey Steadman.

MR. AMPER: My name is Richard Amper. I am the Executive Director of the Long Island Pine Berrens Society, one of Long Island's most visible and respected environmental organization. We are strongly opposed to this alleged solution to the dredging problem. I take my lead from Mr. Tollefsen, because I have heard so much of what was said. I don't want to repeat that. I have supplied that to you in writing. But very simply the Environmental Protection Agency ought not to be engaged in what is literally a shell game where we take contaminants to one place and move it to some other place and allege that there is some environmental value to doing that, or if that makes any environmental sense at all. We do need to solve the problems.

We agree with Mr. Tollefsen's remarks, also, that we want to solve the problem, but we are not solving one by creating a larger one. So those who stand most to benefit from the benefits of

dredging have a responsibility to join with the EPA and the environmentalists on both sides of the Sound to resolve the matter of where this belongs, what are we to do with it. We understand the problem that requires dredging. We need to understand what problems we are creating if we -- if we disseminate the spoils, as we are.

Also we want to urge that the Environmental Protection Agency not be drawn into a state-versus-state fight. This is an estuary of enormous social and environmental and economic value to everybody on both sides of the Sound. So the EPA, which was so helpful and so responsible in the original Long Island Sound Study understands the threats to the Sound, what can and cannot be responsibly done. It seems completely inconsistent with the organization's charter and its record in terms of environmental protection at the Long Island Sound to see it drawn into a solution that does not solve the problem environmentally, creates social and economic threats; and, in fact, simply appears to be a shell game that benefits one state at the expense of all of us. And I don't mean that it will be more adversely impact Long Island than

Connecticut, but we all have problems that we need to solve. We need to work out problems that are not -- that do not produce alleged solutions that are worse than the problems in the first place. So if the EPA is to continue its record of concern over Long Island Sound, it needs to walk away from this knee-jerk approach to moving contaminants rather than cleaning the place up, both in our waterways and in the Sound itself.

You don't have a solution to the problem that is in front of you at this point, and it's important the EPA do that and find that solution. We need some sustainable way to deal with this problem down the road, and this one certainly ain't it.

Thanks.

MODERATOR ROSENBERG: Thank you, sir. The next speaker is Geoffrey Steadman.

MR. STEADMAN: Thank you. My name is Geoffrey Steadman. I am a member of the Board of Directors of the Connecticut Harbor Management Association. We are a not-for-profit organization representing the Municipal Harbor Management Commissions in Connecticut, Connecticut Harbor

Masters, who are appointed by the Governor, and others who have an interest in Connecticut's harbors and marine resources.

We consider dredging and dredged material management issues to be among the most important issues affecting Long Island Sound. We have reviewed the Draft EIS and provided our formal comments to the EPA in a letter of November 17, 2003.

In summary, we support the designation of the historically used open water disposal sites for suitable dredged material and we have described the adverse impacts on Connecticut's economy and environment for sites that are not designated. We also provided with our letter to you a copy of the findings and recommendations from our two-year study of the federal maintenance dredging process as it affects Connecticut's ports and harbors. We worked on that study in cooperation with the staffs of Connecticut's U.S. Congressional delegation.

Tonight, I would like to make just three brief points, if I could. First, we urge that the final decisions concerning the EIS and the site designation process be based on an objective

analysis of the scientific data, good judgment and common sense, not on political considerations.

Second, we urge that all concerned stakeholders recognize and respect each other's objectives as legitimate and important and work together to resolve the current issues in an objective and balanced manner.

The third recommendation I would like to make tonight concerns adding a recommendation to our study of the federal dredging process in Connecticut, adding a recommendation to that concerning the preparation of a comprehensive
Dredge Material Management Plan for Long Island Sound. And I will read that recommendation. The States of Connecticut and New York acting through their respective coastal management and Environmental Protection Agencies should work cooperatively to prepare a comprehensive dredged material management plan for Long Island Sound. Such plan should be prepared in coordination with the US EPA, US Army Corps of Engineers, the National Marine and Fisheries Service and other appropriate agencies with substantial input from all stakeholders. When preparing this plan, it

should be recognized that open water disposal of suitable dredge material is a necessary and viable option. Attention should also be given to identification of feasible alternatives to open water disposal, including but not limited to use of dredged material for structural and nonstructural fill and other beneficial applications, such as beach nourishment and habitat creation. Opportunities for confined aquatic disposal and decontamination should also be evaluated. At this present time, prior to completion of the ongoing EIS for designation of open water dredging material disposals sites, the two states should enter into an agreement to prepare the comprehensive management plan and should begin work on the plan, including establishment of the methodology for plan formulation.

Thank you for the opportunity to comment on this project.

MODERATOR ROSENBERG: Thank you, sir.

I no longer have any cards, if anybody has signed up to provide comment.

If there is anybody in the audience that wishes to speak, but has not filled out a card

may do so.

(No response.)

MODERATOR ROSENBERG: Ladies and gentlemen, we will close this hearing now, but we will remain here to receive any comments. I know that there were two or three individuals that did not get an opportunity to finish their remarks.

They are welcome to give it to the stenographer after our Hearing Officer closes this hearing, and we will remain here on site until eight o'clock for the stenographer to receive additional remarks.

Ladies and gentlemen, our Hearing Officer, Mr. Mel Cote.

MR. COTE: Thank you, Larry.

We've heard some thoughtful statements today. Careful analysis will be required before a determination can be made and a final decision rendered. As has been stated numerous times this evening, written statements may be submitted to the Environmental Protection Agency, or the Corps of Engineers until five o'clock next Monday, December 15th. All of these comments will receive equal consideration with those presented today.

We, at the Environmental Protection

Agency and at the Corps of Engineers, extend our appreciation to all who took the time to involve themselves in this public process.

And finally, before I conclude this hearing, I would like to extend my appreciation to the Charles B. Wang Asian-American Center for the use of this fine facility, and the Stony Brook University Police Department for their support; and I should mention the New York State Police, I believe, with additional security. And I would like to thank all of you for taking the time to provide us with your thoughts, your comments and your concerns.

Good evening.

MODERATOR ROSENBERG: Thank you. (Whereupon, at 7:17 p.m., the hearing was suspended.)

SUBMITTED WRITTEN STATEMENTS

THE ASSEMBLY

STATE OF NEW YORK

ALBANY December

10, 2003

Ms. Ann Rodney

U.S. EPA - New England Region One

Congress Street, Suite 1100 Mail Code

CWQ

Boston, Massachusetts 02114-2023

Re: Draft Environmental Impact Statement for the designation of dredged material disposal sites in Central and Western Long Island Sound, Connecticut and New York

Dear Ms. Rodney:

There are presently no dredged material sites designated by EPA for long-term use in Long Island Sound. The purpose of EPA's preparation of this DEIS is to determine whether one or more environmentally sound open water dredged material

sites can and should be authorized for future long-term use in Long Island Sound, and if so, to designate the site or sites accordingly and consistent with applicable law.

Since the 1992 amendments to the Marine Protection, Research and Sanctuaries Act (MPRSA), use of Corps of Engineers selected sites is limited to a maximum of five years with a possible five-year extension. The time period for using current Corps-selected sites is about to expire, prompting the present need for the EPA to make a determination with respect to dredged material disposal sites in Long Island Sound.

The majority of the total projected volume of dredging needs comes from maintenance dredging of larger federal navigation projects, chiefly the Bridgeport, New Haven, Housatonic River, Milford Harbor, and Norwalk Harbor areas. As the New York State Assemblyman who represents a significant segment of the central portion of the Long Island Sound, a member of the Bi-State Long Island Sound Marine Resource Committee, and prime sponsor of the Long Island North Shore Heritage Act, the area of which includes the New York side

of the Long Island Sound, I am greatly concerned with the prospect of long-term disposal in Long Island Sound of dredged materials from these industrial Connecticut harbors.

It is important to realize that the bays and river mouths, where sedimentation accumulates and impedes navigation, essentially act as filters for the contaminants that pass through them. Harmful contaminants like mercury, copper, chromium, and lead commonly found in dredge from industrial areas should not be allowed to further compromise the estuarine waters of Long Island Sound.

While the DEIS acknowledges toxic accumulations at both the Western Long Island Sound site and the Central Long Island Sound sites, the two locations recommended for continued dredge disposal, there is no assessment of the deleterious long-term effects, nor any mention as to how this present use may contribute to the environmental stresses currently under remediation.

The document is likewise deficient in its evaluation of alternatives to dredge disposal in the LIS dismissing, for example, sites beyond

the edge of the Continental Shelf as being cost prohibitive. There is no question in my mind that the continued disposal of dredged material in Long Island Sound will have a detrimental impact on both the ecological and economic stability of the Long Island Sound Estuary. I believe that the economy of both Long Island and coastal Connecticut are ultimately highly dependent upon a healthy Long Island Sound environment because of the recreational and fishing industries that are derived therefrom and that these benefits far outweigh any of the hauling costs projected in the DEIS.

New York State has made significant investments to protect and improve the water quality of the Long Island Sound. Passage of New York's 1996 Clean Water Clean Air Bond Act provided $200 million for capital projects that would improve the waters and preserve the natural resources of the Sound and its bays and harbors. Since 1995 more than $43 million has been spent on Local Waterfront Revitalization Program projects. This year alone more than $83 million in state grants is being provided to local governments to

assist them in implementing the Long Island Sound comprehensive conservation and management plan, a far reaching agreement designed to protect and improve the water quality of Long Island Sound, which was signed by the Governors of New York and Connecticut and the EPA.

The EPA is currently in a position to move this initiative along in a meaningful way by discontinuing the disposal of dredged materials in the Long Island Sound. As the New York State Assemblyman for the 4th District, I fully support Congressman Bishop's Long Island Sound Preservation and Protection Act. Furthermore, I wish to identify myself with the comments made on July 8th, 2003 in a memorandum from Rodney McNeil of the New York State Department of State, Division of Coastal Resources, to Ann Rodney in which the following observations are made:

1. The EIS fails to show how the site designations satisfy the criteria of the Marine Protection, Research, and Sanctuaries Act (MPRSA).

2. The CLIS and WLIS Site Management and Monitoring Plans are not an acceptable substitute for a comprehensive dredged material

management plan.

3. The EIS does not reflect the importance of finding or developing alternatives to open water disposal of dredged material.

4. The EIS must consider the short- and long-term impacts from the proposed designation of two sites to handle all material dredged from tributaries to the Sound.

5. The EIS and companion documents do not address Federal and State consistency requirements properly.

6. The list of authorized navigation projects includes some that were subsequently "deauthorized" by Congress.

7. There is no mention of what was learned or not learned as a result of the new research/data associated with the New London disposal site.

8. The importance of shipping and commercial and recreational fisheries as resources or as uses in the entire Long Island Sound area is not properly reflected.

Similarly, I endorse and identify my comments with those contained in a November 17,

2003 letter to Ann Rodney sent and signed by Lynnette Stark, Deputy Commissioner for Natural Resources, New York State Department of Conservation and George R. Stafford, Director, Division of Coastal Resources, New York State Department of State. This letter restates and refines the points made in the July 8 memorandum, and I have attached copies of both to this statement as well.

Finally, it should be noted that the use of a temporary "emergency exemption" to the Federal Ocean Dumping Act is now something like 20 years old as it has been applied to the Long Island Sound. Any objective review of this issue within the applicable Federal and State law clearly reveals that the continued use of this provision is unjustified, apparently illegal, and driven almost exclusively by narrowly considered costs. There is not only a much greater cost at stake but also the integrity and public perception of your agency as the ultimate protector of our nation's natural resources. The Long Island Sound is one of only a few places in our great nation deserving of federal designation as a National Estuarine Sanctuary. I

implore you to take this opportunity to end the abusive use of an "emergency exemption" and not to make an even greater mistake by allowing this exemption to swallow the rule and make permanent mockery of the intent of Congress and our states to protect this critical ecosystem and extraordinary ecologic and economic national asset.

Thank you for your consideration. Sincerely,

Steve Englebright

Member of Assembly, 4th District

* * * * *

New York State Department of State

Division of Coastal Resources

Memorandum

To: Ann Rodney

From: Rodney McNeil Date: July 8, 2003

Subject: EIS for Designation of Dredged Material Disposal Sites in Long Island Sound

The Division of Coastal Resources has

reviewed the May 2003 agency review draft for the above-referenced EIS. As requested, we are providing initial comments at this time. We will undoubtedly provide further, more detailed comments during the formal 45-day comment period later this summer.

Our comments are as follows:

1. The EIS fails to show how the site designations satisfy the criteria of the Marine Protection, Research and Sanctuaries Act (MPRSA). It is clear that the EIS was developed to select sites for dredged material disposal that would entail the least practical health risks due to contaminants based upon available information. It is also clear that the process for identifying sites was structured in a way that could allow the focus to end up with one or more existing dredge material disposal sites rather than exclude them. While the EIS contains substantial environmental information, it does not include an ecosystem-level characterization of the Sound as a data source on which to evaluate possible project impacts. These and other aspects of the EIS manifest a fundamental

failure to demonstrate that there is any site in Long Island Sound that can satisfy the MPRSA criteria, given the stressed and not well understood ecological conditions in the Sound, its special status as an estuary of regional, state and national significance, and in view of both national and state commitments to improve and restore the health of the Sound's ecosystem. It appears that the site management and monitoring plans are the intended means for addressing shortcomings in meeting the criteria.

2. The CLIS and WLIS Site Management and Monitoring Plans are not an acceptable substitute for a comprehensive dredged material management plan. Interstate commitments of more than two decades ago to develop a comprehensive dredged materials management plan have been ignored for the sake of expediency.

3. The EIS does not reflect the importance of finding or developing alternatives to open water disposal of dredged material. Potential alternatives to open water disposal are examined in

a cursory fashion and readily dismissed. Open water disposal in an estuary must be treated as a last resort option rather than an expedient inclusion to handle contaminated dredged material in the most economical manner.

4. The EIS must consider the short and long-term impacts from of the proposed designation of two sites to handle all material dredged from tributaries to the Sound. The EIS should evaluate potential impacts using a projected frequency of disposal and a total volume of dredged material disposed at the two sites based on the assumption that no additional sites would be approved.

5. The EIS and companion documents do not address federal and state consistency requirements properly. The EIS and the two site management and monitoring plans fail to indicate that the site designation approval by US EPA must be consistent with the NYS CMP based on whether the designation and subsequent activities would affect any coastal use or resource in New York. The documents fail to assess or analyze affects of site selection and the

subsequent use on coastal policy from either the NYS CMP or the Long Island Sound CMP. This appears to be part of general misunderstanding of the difference between federal and state consistency obligations. For example, the citation on page 8 of the WLIS SMMP should be 15 CFR Part 930 rather than 19 NYCRR Part 600. We had provided EPA with relevant information that has not been reflected in the documents.

6. The list of authorized navigation projects includes some that were subsequently "deauthorized" by Congress. Manhasset Bay, Hempstead Harbor, Huntington Harbor, Northport Harbor and Sag Harbor in New York were "deauthorized." Suffolk County has maintained some of the channels previously maintained by the Army Corps of Engineers.

7. There is no mention of what was learned or not learned as a result of the new research/data associated with the New London disposal site.

8. The importance of shipping and commercial and recreational fisheries as resources or as uses in

the entire LIS area is not properly reflected.

* * * * *

November 17, 2003

Ann Rodney

US EPA, New England Region

One Congress Street

Suite 1100, CWQ

Boston, MA 02114-2023

Re: Draft Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York

Dear Ms. Rodney:

The New York State Department of Environmental Conservation and the Department of State (the Departments) have reviewed the Draft Environmental Impact Statement for the designation of dredged material disposal sites in Central and Western Long

Island Sound.

The Departments identify below a number of revisions and additions to the Draft Environmental Impact Statement (DEIS) which we find necessary to support a final site designation decision.

Assuming the Final EIS addresses these concerns and all involved agencies commit to the development of and a schedule for a comprehensive Sound-wide Dredged Material Management Plan prior to the use of the two sites, the Departments will not oppose the designations of the Western Long Island Sound (WLIS) and Central Long Island Sound (CLIS) sites. The designation process for the disposal sites now under consideration has been inappropriately separated from the development of a Comprehensive Dredged Material Management Plan (DMMP) for Long Island Sound. The detailed information and analysis typically included in a DMMP would fill many of the informational gaps in the site designation (DEIS), such as the chemistry of sediment to be dredged and the capacities of possible alternative disposal sites. A comprehensive DMMP will better identify upland,

beneficial use and sediment management (such as nonpoint source control) options in order to minimize the amount of dredged material that will be disposed in Long Island Sound. The Departments stand ready to work with our partners to develop a DMMP.

The Departments view in-water disposal as the least preferred management option for dredged material after beneficial uses and upland management. This is the approach that EPA, the U.S. Army Corps of Engineers and the States of New York and New Jersey have taken in New York Harbor. The Departments believe that there should be a similar commitment for Long Island Sound. We are concerned that site designation may lead to only a cursory review of other dredged material management options during individual project alternative reviews due to the generally lower costs associated with in-water disposal. This could unnecessarily perpetuate the practice of in-water disposal in the Sound by eliminating the incentives for project sponsors to investigate or develop alternative disposal methods.

The DEIS must be revised to reflect the following points before the Departments can support the designation of the Western and Central Long Island Sound sites:

The Departments believe that the closure plans for the WLIS and CLIS sites are inadequate. There must be a discussion of site capacity, projections for the potential life span of the sites and procedures that will be followed for site closure.

There must be a clear articulation of the sediment screening criteria and how they will be applied for dredging projects, both under the Marine Protection, Research and Sanctuaries Act and Clean Water Act (CWA). The DEIS and the site management and monitoring plans (SMMP's) should present the criteria rather than list the references. We also request that the DEIS provide an estimate of the volume of material likely to meet the criteria. We understand that a regional implementation manual is under development which may address these concerns. We request the opportunity to review and comment on

this document and that it be released for public review and comment prior to the completion of the FEIS. We recommend that the manual be incorporated as an integral part of the FEIS.

There must be an assessment of the potential impacts of CWA projects on the sites. The SMMP's must state how the CWA material will be managed at the sites, including the criteria for capping where necessary.

The alternative analysis for upland and beneficial use (Appendix C) is deficient, most notably in the scarcity of information regarding the potential capacity of upland and beneficial use sites. The DEIS should provide more detail on how the decision was made that the alternative sites could not reasonably be used. There must be a sediment management hierarchy which states that in-water management is the least preferred alternative for individual projects. This is an important and key issue that is not fully addressed and considered in the Draft EIS, and it should be, especially as it relates to the "consistent to the maximum extent

practicable" standard of the Coastal Zone Management Act and the New York Coastal Management Program.

We request that both the Departments be notified of all proposals to dispose of material in the WLIS and CLIS. The Department of Environmental Conservation reserves the right to exert its our authority under Section 401 of the Clean Water Act if it believes that disposal activities may impact New York waters or resources.

Thank you for the opportunity to review the DEIS. We have attached specific comments on the DEIS and SMMP. For further discussion, please contact Karen Chytalo of the Bureau of Marine Resources at 205 North Belle Meade Road, East Setauket, NY 11733 Phone (631) 444-0430 or Rod McNeil of the Division of Coastal Resources, Department of State phone (518) 474-6000. We look forward to your response.

Sincerely,

Lynette Stark
Deputy Commissioner for Natural Resources

Department of Environmental Conservation
George R. Stafford
Director, Division of Coastal Resources
Department of State
attachment

* * * * *

Attachment.
DEIS, Section 4:

Table 4-16 (P 4-40) and Table 4-17 (P 4-45) show some metal and PCB concentrations at the WLIS farfield stations that are higher than at the active and historical sites and in all cases higher than the reference sites. Does this indicate sediment migration? Are the differences significant?

Table 4-37 (P 4-131) shows that total PCBs at CLIS are higher in lobster hepatopancreas than at the reference sites. The DEIS should discuss the significance of this.

Appendix J, Site Management and Monitoring Plans:

Table 10 (P 28, J-1, WLIS; P27, J-2,

CLIS) and Table 11 (P 29, J-1, WLIS; P 28, J-2, CLIS) contain outdated action levels and effects levels for comparison of contaminant concentrations of field collected lobster, finfish and benthic invertebrate tissues.

Table 10, in both J-1 and J-2, uses FDA action or tolerance levels as the benchmark for human health end point comparisons in lobster and finfish tissue. While the FDA values are used to determine whether seafood products can be commercially sold, more conservative criteria are often used to assess the risk from environmental contaminants. EPA normally uses more updated approaches that calculate human health tissue endpoints from cancer and noncancer effects levels, and these result in typically much lower thresholds than FDA values.

Table 11, in both J-1 and J-2, compares lobster, clam and worm field tissue results to various ecological effects values. The values and their reference sources for both DDT and PCB are outdated and much higher than typically calculated for ecological effects. More updated values can be derived from EPA water quality criteria and

bioconcentration factors, or more recent laboratory effects testing found in the scientific literature.

The following comments relate to the tiered monitoring approach in both J-1 and J-2 of the site management and the monitoring plans.

1. Management Focus 1: Movement of Dredged Material (6.1.2).

There seems to be no option for management actions if material is lost from the mounds, but no change in the surrounding bathymetry is detected. If material is being lost, management action needs to be taken. It is likely that sediment lost from the disposal mounds would be widely dispersed and difficult to detect, especially if the sediment grain size is similar to the existing sediment in the down-current sites. Moreover, it is unclear how Tier 3, Assessment of Sediment Quality, would be triggered unless substantive changes in bathymetry or changes in sediment characteristics are noted. This makes it important that sufficient information on baseline conditions, especially at near site locations, is collected and maintained. If it is the intent to regulate the regulations of sediment chemistry,

toxicity testing and benthic community surveys to a Tier 3, then a closer review of how the applicable existing bottom conditions and capabilities of monitoring methods combine to enable an adequate ability to make the above discriminations for changes in bathymetry or sediment characteristics
in areas adjacent to the site needs to be performed.

2. In Management Focus 2: Absence from the Disposal Site of Pollutant-Sensitive Biota Characteristic of the General Area.

a. There is a typographical error in Hypothesis 2-2 for Tier 1. The word "not" should be removed. It is correctly stated in the flow chart.

b. The requirement for proceeding from Tier 1 to Tier 2 is that any significant differences in benthic assemblages between the mounds and the reference areas are not explainable by grain size information. If existing (baseline) conditions in the areas to be surveyed are not adequately characterized, it will be difficult to verify

differences after disposal with any degree of confidence. In addition, reduced recolonization on mounds may be written off as being caused by grain size when it may, in fact, be more directly related to contaminants, given that contaminants are
usually more concentrated in the fine sediments (i.e., from dredging projects). Since sediment chemistry is not provided for until Tier 3, making a determination based on grain size to disqualify an impact may be premature and incorrectly determine that no management is necessary.

Tier 2 takes the reliance on grain size as a disqualifier for an adverse impact one step further by trying to relate diminished recolonization to how widespread the impacts are found to be. It makes this leap from an impact on mounds to a more "widespread" impact somewhat arbitrarily, since a widespread impact was initially described (hypothesis 2-2) as potentially obviating the importance of an impact observed on mounds alone. The initial reasoning for this requirement seemed to be to avoid progression into Tier 3 if a diminished recolonization found on mounds could be

caused by a more widespread phenomenon such as regional low dissolved oxygen conditions.

Tier 3 reasserts the requirement for widespread impacts with the definition that widespread means the impact must encompass areas within and outside of site boundaries. However, there must be better depiction or definition of what areas are
considered as outside of site boundaries as opposed to reference areas. Hypotheses 2-5 and 2-6 confuse this tier by not stating where benthic communities are not equal to reference sites (2-5, on mounds or "widespread"), whereas 2-6 states that sediment toxicity from the disposal site to not be significantly greater than reference sites. It is further stated later in the language that sediment chemistry and toxicity will be measured at locations from within the deposited material and reference sites. These apparently contradictory statements and issues need clarification.

The DEIS does not accurately reflect circumstances regarding dredging and dredging management and disposal needs in the Long Island Sound region.

The list of "Authorized navigation projects in Connecticut and New York in and around Long Island Sound..." is inaccurate. It includes a number of harbors which are not currently maintained by the Corps, and some for which Corps responsibility and maintenance has been discontinued. The list also includes areas in the Peconic Bays region, where alternatives to the open water disposal of dredged materials are available, and have been used.

* * * *

Alternative suggestions to the proposed dumping into the Sound.

Clean the contaminated material before releasing it into the Sound by controlling the contaminated runoff at the source or create filtration systems to catch the runoff before it reaches the Sound. The majority of heavy metal contaminated material is from Connecticut's industrial areas. Strict monitoring of these areas need to be considered. According to the Long Island Sound Study's management plan; preventing

toxic substances from entering the Sound by continuing successful regulation and pollution prevention programs is the most effective method of preventing future degradation and may be the most economic means of managing toxic substances.

A beneficial use of dredged material is to recycle it. Dredged material has historically been considered a waste product and managed by creating facilities for permanent placement. Recently, the USACE and other technical experts in the maritime industry and material recycling field have found alternatives involving the use of dredged material for beneficial use. Examples of beneficial use of dredged material include beach replenishment, shoreline restoration, island restoration, manufactured topsoil, construction fill, landfill, abandoned mine and brownfield cover, and habitat restoration. Dredged material can also be heat treated and formed into lightweight aggregate and building blocks. On November 25, 2003, the EPA unveiled a pilot technology that can turn dredged material into a substance that can be used to make construction grade cement, called "Cement-Lock."

Dump the dredged material in upstate disposal sites that can accommodate contaminated material.

We are the first link in how we effect our environment, and we are the last link in how it affects us. Occasionally heavy metals and toxic discharge from dredge material ends up in our sealife and the seafood we eat. We are the end of the food chain. All seafood coming from the Sound ends up in ourselves and our children. We then become living filters, filtering out the contamination we create. The cost of finding other alternatives to dumping dredge spoils in the Sound may prove to be more costly; however, the health and well-being of our environment is worth the investment. The estimated value of the Sound to the local economy is $5.5 billion per year. We must invest and protect this economic resource. Long Island Sound is dangerously becoming so stressed that it may eventually no longer maintain safe and productive sealife. This is not the time to continue to add insult to injury, by adding the additional burden of contaminated dredged waste to the Sound.

According to your history time line, the U.S. Environmental Protection Agency was established in 1970 to consolidate in one agency a variety of federal research, monitoring, standard setting and enforcement activities to ensure environmental protection. EPA's mission is to protect human health and to safeguard the natural environment -- air, water, and land -- upon which life depends. For more than 30 years, the EPA has been looking for a cleaner, healthier environment for the American people.

The Long Island Sound 2003 agreement was created to restore the health of Long Island Sound by 2014. This agreement encompasses the comprehensive conservation and management plan. It would seem that dumping contaminated dredged material will negate many of the benefits the EPA has taken to ensure the restoration of Long Island Sound. Please reconsider the extension until further research has been done to find alternative designations for the discarded material. If you do approve the extension, all of the studies, agreements, and plans to restore the Sound will have been created in vain. Please do not turn back

the progress that has been made by allowing additional degradation to the Sound.

Questions:

1. In 1985, a six year research and management project was created called the Long Island Sound Study. This cooperative includes research institutions, regulatory agencies, marine user groups and other organizations and individuals.

The purpose of this study is to produce a management plan for the Sound that will be administered by three major LISS partners, the EPA, and the States of New York and Connecticut. Have you consulted with this group, and what is their opinion regarding the dredged dumping?

2. According to the executive summary of the Draft Environmental Statement for the designation of dredged material disposal sites (in Central and Western Long Island Sound Connecticut and New York), the EPA will identify alternative considerations and will state whether all practical means to avoid or minimize environmental harm from the proposed action have been adopted. According

to the Ocean Dumping Act, also known as the Marine Protection, Research and Sanctuaries Act (MPRSA), the EPA must exhaust all alternatives to open water disposal. What are your alternatives?

3. What is the criteria for "suitable open water disposal?"

4. What are the results of the October 2002 Long Island Sound dredged material disposal site designation EIS-Collection of Marine Biota For Containment Analysis?

5. Where is the majority of contaminated material coming from? Is it being tested? If it is highly contaminated, how is it being disposed of?

6. When was the original notice of public hearing regarding this issue released? Where?

Can you give me information to help me understand...why? Please answer questions.

Send to: Sarah Anker
12 Eagles Landing Mt. Sinai, NY 11766

or e-mail: Sanker@optonline.net

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Friends of the Bay working to keep the oyster in Oyster Bay

Ms. Ann Rodney

US EPA, New England Region One

Congress Street

Suite 1100, CWQ

Boston MA 02114-2023

Re: Draft Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York.

Dear Ms. Rodney:
On behalf of the Board of Directors and community sponsors of Friends of the Bay, thank you for extending the comment deadline and conducting another hearing today on the subject of the Draft Environmental Impact Statement (DEIS) for the

designation of dredged material disposal sites in Central and Western Long Island Sound, in Connecticut and New York.

Friends of the Bay is a nonprofit environmental organization in Oyster Bay, New York. We have over 2,000 supporters who contribute to our efforts through their perseverance, volunteering, and their purses, most of whom live in the watershed area of the Oyster Bay and Cold Spring Harbor estuary. Our mission at Friends of the Bay is to advocate for

the protection, preservation and integrity of the Oyster Bay and Cold Spring Harbor estuary, from Mill Neck Creek in Bayville to Cold Spring Harbor, and its watershed. Our primary focus is on water quality.

As you must know, major portions of our estuary are designated as a National Wildlife Refuge. The remaining portions have been designated by New York State as Significant Coastal Fish and Wildlife Habitat areas. The estuary together with its watershed has been identified by New York as an outstanding natural coastal area (more recently

renamed a Regionally Important Natural Area, or RINA).

The 19997 Oyster Bay-Cold Spring Harbor Resource Management Plan addresses the RINA. It was completed in a cooperative effort that included the United States Fish and Wildlife Service, NYS Department of State, the NYS Department of Environmental Conservation, the Towns of Oyster Bay and Huntington, and the villages of Center Island, Bayville, Lattingtown, Mill Neck, Matinecock, Upper Brookville, Oyster Bay Cove, Cove Neck, Laurel Hollow, and Lloyd Harbor. Friends of the Bay and interested members of the public also participated in the creation of the plan. The plan reflects a consensus on the issues and opportunities for resource management in the watershed. There is broad agreement on the overriding importance of maintaining high water quality in the estuary because of its high economic value to a shellfishery of statewide importance as well as other fisheries, the property values of nearby residents, and the value of clean water to marine recreational activities, tourism, wildlife, and

quality of life for people.

The New York State legislature has designated New York's portion of Long Island Sound extending from Great Neck east to Orient Point as a key component of the Long Island North Shore Heritage area (LINSHA). It is one of 17 heritage areas in

New York State that have been established to preserve and develop areas of special significance. A Planning Commission is actively preparing a management plan for the LINSHA, which is due in 2004. The value of clean water in Long Island Sound to New York and as a national estuary, designated as such by US EPA many years ago, cannot be underestimated.

New York has made great strides and great investments in improving water quality in Long Island Sound and its contributing smaller estuaries. The battle against hypoxia is being fought. The reasons for massive lobster die-offs are being investigated. Scientific research, public outreach and education, new emphases on tourism and waterborne transportation alternatives,

inquiries into toxic contamination of salt marsh sediments, curtailments of nitrogen loading from sewage treatment plants and combined sewer overflows are all subjects of huge public and private investment and of measurable improvements.

It therefore is hard to conceive why the Army Corps of Engineers and the US EPA would choose to select disposal sites for large quantities of dredge spoil for the long-term in this precious estuary, summarily dismissing, with vague references to cost, alternatives that would pose less of a risk to the estuarine environment, its inhabitants, and its nearby human populations.

It was with shock and dismay that we learned that alternatives with less impact on the environment were screened out of the analytical review process before the process even had begun. Such alternatives as upland disposal, treatment and reworking of the dredged material into commercial products, and beneficial use of dredged material should not have been set aside as they were from the outset. Rather these alternatives should have

been the subject of your more rigorous analysis.

It is inadequate simply to state, for instance: "There were no specific sites of sufficient capacity"; "limited opportunities exist for development of confined disposal facilities in the Long Island Sound waters as a long-term regional site"; "open space is not available" for drying and rehandling of dredged material, which you then qualify by saying that "[e]ven where such space may be available, its use in lieu of other purposes to which it may be put carries a cost to its owners"; "landside transportation adds significant cost to the disposal of the material"; "the high cost of upland transport is impractical"; and so on, with absolutely no substantiation presented to support those assertions. How much more expensive would such alternatives be when compared with the potentially high costs to human health; the costs of estuary restoration; the costs of losing New York's primary oyster fishery whose home is in Oyster Bay; the costs attributable to loses in tourism, property values and thus property tax revenues; and the as yet undetermined costs of

engineering solutions to reversing contamination of our estuarine waters?

Friends of the Bay believes it was irresponsible to screen out viable alternatives prior to your review process. We especially are concerned with your rational for dismissing the alternative related to treatment technologies. You stated that "...sediment treatment with beneficial use can be realized on a commercial scale level," and yet you immediately amended that admission with another, unsubstantiated dismissal: "The cost of treatment will certainly be more expensive than open water disposal based on the sheer cost of infrastructure development, energy requirements, materials handling, etc." What a shortsighted view! And

here the DEIS is proposing long-term dredge spoil disposal sites! What long-term, cost-effective solutions are proposed for the resulting environmental and economic impacts that will result from not pursuing treatment technologies?

The DEIS states that "[t]he costs and throughput rates for such alternatives make them impractical

for use in this evaluation as long-term regional disposal alternatives." The agencies are seeking long-term solutions for dredging disposal yet examining only current, short-term economic constraints. This makes no sense at all. There will be no demand for advances in treatment technologies as long as the government provides a quick fix and allows dumping to continue, at the huge cost imposed on all our futures. It would be far more responsible for government to encourage research and development of such treatment technologies. Pursuing the alternative through a rational analysis would focus needed attention on it; selecting the alternative as the preferred alternative or perhaps as a component of a comprehensive disposal program would spur on the work to obtain improved technological solutions
that are far superior to the old-fashioned, dump and hope to contain methods the agencies have chosen to promote.

Friends of the Bay acknowledges that bivalve mollusks have limited capacity to detoxify organic contaminants, which results in their uptake and

accumulation at potentially high concentrations. We also recognize that exposure to lipophilic organic contaminants may result in impaired physiological disorders, histopathological disorders, and reduced reproductive potential. We are not willing to accept these risks to our hometown shellfish farming industry that gives Oyster Bay its name. We do not want the federal government to allow contaminated spoils from another state dumped right outside the mouth of our estuary, right off of Lloyd Neck. Further, the spectacular and ecologically significant salt marsh and nearshore resources of Caumsett State Park would be placed significantly at risk.

We support Representative Timothy Bishop's bill, H.R. 3409, to amend the Marine Protection, Research and Sanctuaries Act of 1972 to prohibit dumping of dredged materials that contain any of the constituents prohibited as other than trace contaminants from being dumped in Long Island Sound, Block Island Sound, or Peconic Bay, except in the cases where such constituents can be proven not to cause significant undesirable effects,

"including the threat associated with bioaccumulation of such constituents in marine organisms." We applaud Rep. Bishop for his leadership, foresight, and energetic and successful pursuit of the support of the entire Long Island Congressional Delegation for this bill.
We request the Army Corps of Engineers and the US EPA return to the initial screening process of alternatives, and include the alternatives of
upland disposal and treatment technologies as viable alternatives for your most thorough review and examination.

Thank you for the opportunity to voice our concerns regarding this proposal.

Sincerely,

Louise Harrison
Executive Director

* * * * *

Citizens Campaign For the Environment

Protecting the environment and working for a healthy world

November 17, 2003

Ms. Ann Rodney

United States Environmental Protection Agency

New England Region (Region 1)

Suite 1100 CWQ

Boston, Massachusetts 02114-2023

Re: Draft Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Long Island Sound

Dear Ms. Rodney,

Citizens Campaign For the Environment (CCE) is an 80,000 member, not-for-profit, nonpartisan advocacy organization working for the protection of public health and the natural environment on behalf of its members in New York and Connecticut. The

protection of waterways, especially estuaries, is one of the utmost importance to CCE. CCE has been working to protect water quality across New York State and throughout the nation since its inception in 1985. Currently, CCE actively works on protecting many of New York's largest and often

most impacted waterways including the Hudson River, the Long Island South Shore Estuary Reserve, the Great Lakes, the Finger Lakes, the Peconic River, and Long Island Sound. Additionally, CCE is a member of the Long Island Sound Study Citizens Advisory Committee.

The major waterways in the region around Long Island Sound, including the Hudson River, the New York/New Jersey Harbor, the Peconic Estuary, the Long Island Sound Estuary system and the South SHORE Estuary Reserve, are especially valuable to the region and the state as a whole. All of the water bodies listed above have been extensively studied, and are now subject to management plans, which were adopted as part of an effort to preserve and protect each from degradation. Estuarine waters are some of the most productive in the world

and home to a wide variety of terrestrial and aquatic organisms that thrive in the unique habitats created by the brackish or tidal waters. From the tiny plankton communities, to the deeply submerged benthic organisms to the commercially valuable fish and shellfish, to the great birds residing near its shores, the Sound is a complex "urban sea" filled with invaluable, fragile, and irreplaceable ecosystems.

Long Island Sound is not only valuable for the breeding, nesting and feeding habitats it provides to a myriad of plant and animal species, but also for the commercial fishing, tourism, and recreational opportunities it provides the many communities along its shoreline. An astounding 10 percent of the United States population lives within just 50 miles of Long Island Sound. This concentrated population living in close proximity to the Sound, combined with local industrial, commercial and tourist activities leaves the Sound facing serious environmental problems including diminished water quality, loss of open space in the watershed, and threats to the native species

including overharvesting and habitat degradation.

With this in mind, CCE offers the following comments regarding the Draft Environmental Impact Statement (DEIS) for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound.

1. Environmental Protection Agency (EPA) and Army Corps of Engineers (ACE) are quick to rule out alternatives to open water disposal of dredged material including upland disposal, containment, and/or treatment technologies. It is stated that these alternatives would greatly increase the cost of dredged material disposal, and that sites and technology must be developed to make such alternatives possible.

However, the fact still remains that disposing of dredged material in Long Island Sound puts the Sound at greater risk for contamination and degraded water quality than if the alternatives stated were further explored, developed, and eventually utilized. CCE opposes the open water

deposition of dredged material which often contains varying amounts of hazardous constituents including toxic chemicals, heavy metals, pesticides, and other contaminants which not only degrade water quality, but also bioaccumulate in ecosystems.

The harbors from which the dredged material will be removed are and have historically been used for recreational boating, industrial and commercial traffic. Additionally, many of the harbors and their tributaries have been dominated by the presence of industrial and commercial operations that release pollutants that are being found in the local shell and finfish populations. While dredging these harbors is necessary for their continued use, and upon which local economies depend, the potential disposal of over 21 million cubic yards of untreated, contaminated material in Long Island Sound will degrade water quality, ecosystem health, and impair the efforts to remediate the Sound through the work of the Long Island Sound Study.

2. The EPA and ACE make an economic, not

environmental, argument for the designation of open water disposal sites for dredged material in Long Island Sound. CCE was disappointed that the Environmental Protection Agency released a DEIS
that based, in large part, its decision to
recommend the disposal of dredged material in two open water sites in Long Island Sound on the argument that "the ability to dredge and affordably dispose of dredged material is critical to maintaining the large amount of navigation-dependent businesses and industries in the Western and
Central Long Island Sound region." CCE agrees that dredging harbors is necessary to provide for their continued safe use and value to local economies, however, disposal of material that may put those same economies at risk is irresponsible and nonsensical. CCE believes the EPA's primary mission is environmental protection and in this case protection of LIS water quality and implementation of the recommendations of the LISS.

One local economy that is dependent on the use of local harbors is the commercial fishing industry. If large quantities of contaminated dredged

material are deposited in Western and Central Long Island Sound, there is the real likelihood that the contaminants will be released to the water column where they can migrate, bioaccumulate, and kill or sicken aquatic life in the Sound. The Long Island fishing industry has already been harmed by the PCBs leaked by General Electric in the Hudson River. If an economic argument is going to be made, EPA should recognize the importance of protecting the ecosystem and the economic harm that additional pollutant loading will have on local economic interests.

3. The open water disposal process allows contaminants to migrate from the plume into the water column and degrade water quality. The process begins with the release of material (up to 5,000 cubic yards) into the water. During the descent of the plume dilution occurs. According to the DEIS, 1 to 5 percent of the material remains in the water column following the convective descent (first) phase of disposal. Additionally, during the dynamic collapse (second) phase, the descending plume impacts the bottom and expands horizontally,

which can increase turbidity and dispersion. Finally, in the passive diffusion stage (third),
the disposed material can be transported by oceanographic conditions including currents and turbulence. The DEIS states that "this phase results in the dispersion and transport of the suspended sediments, and may last for several hours depending on the specific gravity and particle size of the sediment" (Chapter 5, P. 5-2 - 5-3). The open water disposal alternative provides too many opportunities for contamination to be dispersed throughout the Sound, and accumulate in its biota. In addition, CCE notes studies looking at early mid-water disposal found that the contaminants did not remain buried over the long term as initial studies had predicted. The proposal to once again use mid-Sound disposal only repeats past mistakes.

CCE respectfully requests that EPA not designate a long-term open water disposal site for dredged material in Western or Central Long Island Sound. Additionally, CCE suggests that both EPA and ACE begin exploring alternatives for the treatment and upland disposal of contaminated dredged material,

and beneficial reuse of benign dredged material, including possibilities for development of technology and/or methods for decreasing the cost
of such disposal techniques. With all that the Sound is used for, food, swimming, tourism, boating, and commercial enterprises, it would be shortsighted to allow the long-term use of such a waterway as a dump for hazardous material.

Thank you, in advance for your serious consideration of these comments.

Sincerely,

Jessica Ottney

Program Coordinator

CC: Hon. Timothy Bishop, United States House of Representatives; Hon. Charles Schumer, United States Senate; Hon. Hillary Rodham Clinton, United States Senate; Hon. George Pataki, Governor of New York State; Hon. John Rowland, Governor of Connecticut; Mr. Robert Varney, EPA Region 1 Administrator; Ms. Jane Kenny, EPA Region 2 Administrator; Commissioner Erin Crotty, New York

Department of Environmental Conservation; Commissioner Arthur Rocque, Jr., Connecticut Department of Environmental Protection; Ms. Sara Meyland, CCE Executive Director and General Counsel

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Continued testimony of Dorothea L. Cappadona

Toxics are bioaccumulative in the food chain. That means that they multiply exponentially as one ascends the food chain. You are already aware that benthic organisms, shellfish, finfish, etc. will be affected by the dumping of the toxic. However, you claim that the accumulation is insignificant. How have you accounted for the exponential storage of these toxics in the tissue of these organisms, and how do they pass on the accumulated amount to the larger organism (eventually man) which ingests them? To date there are no "cures" for affected fauna - benthic organisms, shellfish, finfish, mammals, humans. The toxics simply accumulate in each body and multiply in the more advanced

organisms.

There are many other inclusions. It is time to stop shifting the burden from polluters to their victims, i.e., the people who live around LIS. It is time to shift the burden to the polluters. Remove the toxics from the dredged material. Include the cost of the safe disposal of toxics/dangerous bacteria/viruses/etc. in the cost of the product/service. Stop subsidizing pollution to the detriment of the victims. Start to consider the good and the good health of all the citizens. Use incentives to get the polluters to clean up their mess before it goes into any waterway. This is an acceptable solution.

Reverse your decision to allow the dumping of dredged material into Long Island Sound. Dumping of dredged material, as proposed, is the most costly solution and not the least, as you contend. If you want a study, do one which considers all of the costs. Do not try to use a flawed "study" to justify a predetermined conclusion.

Yours truly,

Dorothea L. Cappadona

CC: Senator C. Schumer; Senator H. Clinton; State Senator C. Marcellino; Assemblyman J. Conte; Attorney General E. Spitzer; Comm. B. Castro; Sup. F. Petrone; S.C.; Legis. J. Cooper; H.R. T. Bishop; Newsday; Long Islander; Huntington News; T. Bishop.

(Whereupon, at 8:00 p.m., the public hearing was adjourned.)

C E R T I F I C A T E

I, Marianne Kusa-Ryll, Registered Merit Reporter, do hereby certify that the foregoing transcript, Volume II, pages 1-213, is a true and accurate transcription of my stenographic notes and testimony entered into the record taken on December 10, 2003.

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Marianne Kusa-Ryll, RMR