

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

**Testimony by Cindy Zipf, Executive Director of Clean Ocean Action on behalf
of Clean Ocean Action before the House of Representatives Subcommittee on
Fisheries Conservation, Wildlife and Oceans. November 5, 1999.**

I speak today not only on behalf of the 179 organizations represented by the coalition, also on behalf of over 650 citizens ages 6 to 96 from New York City to Long Beach Island that attended a public hearing on October 20th to object to the proposed dumping of contaminated sediments off the Jersey Shore.

On July 26, 1996, Vice President Al Gore brokered a land-mark agreement that committed federal agencies to assure the continued prosperity of the Port of New York and New Jersey and the end of ocean dumping contaminated sediments off the Jersey Shore. Though we have worked in good faith abide by the commitments made, federal agencies are now betraying their commitment to clean up the ocean.

Nearly a century of ocean dumping dredged sediments has left its mark on the ocean floor. Of course it goes without saying that dumping material smothers the life it buries. With all the dumping, a grotesque mountain of muck now rises off the sea floor some 50 feet and spreads out for miles--almost twice the area of Manhattan. The area was designated by US Environmental Protection Agency (EPA) as the Historic Area Remediation Area (HARS) and is known locally as the toxic stain. This same region of the Atlantic Ocean is a premier fishing ground. The natural convergence of rivers, estuary and unique ocean floor creates a fish magnet. However, the toxic legacy contained in the muck can be found not only in the sediments but in the animals that live in it--worms, clams, minute species that are at the base of the food chain. When fish feed here they get more than just fish food--they absorb the toxins through the food chain distributing these contaminants as far as fish can migrate and/or finally into the people who eat them.

I have four major points. EPA's standards for remediation violate the Agreement and common sense. According to the Agreement, the EPA and the US Army Corps of Engineers (Corps) were to end ocean dumping of contaminated material into the ocean and remediate the site with uncontaminated dredged material to reduce the impacts at the toxic stain to acceptable levels. In a sense, placing a clean bandage over a festering wound. This "clean cap" was controversial because of the lack of trust of federal agencies, however, conditions in the ocean were so bad that we agreed to the clean cap.

It appears now our worst fears have been realized and the ocean now faces more harm. Category 1 material was defined in July of 1996 as material that will cause "no unacceptable toxicity or bioaccumulation," and Category 2 was defined as material that has "no unacceptable toxicity or potential for bioaccumulation." In December of 1996 the definition changed. Attached is the new list of chemical contamination considered Category 1--as you can see from the graph they are all higher than what currently exists in the toxic stain. One in particular is a million times higher. The only contaminant level that will be reduced is lead.

What we have is a dirty bandage - an evaluation system that is left over from ocean dumping days. Though EPA is currently re-evaluating this process, there are no guarantees that it will be any better. In the meantime, material much, much than the existing toxic stain passes for "remediation material." The result will be a toxic stain more contaminated than the existing one.

This does not pass the straight face test, nor does it meet the promises made. The result of this bogus criteria was used to determine mud from the highly industrial waterway was found to meet the "Category 1" standard. The company, Castle Astoria Terminals, Inc (CAT) seeks to dump 90,000 tons of contaminated goo from their berthing areas. As one would

expect with a fuel oil company, the muck is highly saturated with petroleum, but also contains high levels of PCBs. Test results also showed levels in CAT's mud that exceeded the lead levels (yes, the only contaminant that would be reduced under EPA's Category 1). EPA's incredible response however was to waive the standard because it is a conservative value and it was always waived during the days of ocean dumping.

(2) New York has ignored the obligation to find alternatives. One of the main reasons for the dumping of this muck is that New York has done essentially nothing to find alternatives. There is no state or city leadership. In stark contrast, New Jersey, has not only developed environmentally sound alternatives, but is also fixing leaking landfills. One recently proposed option of filling in existing pits in Jamaica Bay is an example of NY's lack of initiative. It is completely implausible at this time. Officials of the park and local citizens are "unalterably opposed to it." In addition state permitting requirements including an environmental impact assessments have not even yet begun.

(3) This muck sets a precedent. If this material is allowed to be dumped, it sets an all time new low for "remediation material." Ocean dumping starts all over again and alternatives are abandoned. Companies fixing landfills will not be able to obtain mud - it is already in scarce supply and more and more will not be going to landfills.

(4) This is also a national problem. The lack of protective standards for sediments is not only a problem in the NY/NJ region, it is a problem in every waterway that has been exposed to chemicals. There is good information and assessment tools established by NOAA to help determine unhealthy sediments, yet they are not used for ecological protection.

We urge Congress to direct EPA to develop remediation material standards that will reduce contamination levels of present in the HARS to levels which are considered ambient levels. Congress must also direct NOAA in consultation with EPA to develop sediment standards for the nation that are protection of sensitive species at sensitive life stages. Only then will our waterways be healthy and produce healthy fish that we can eat without fear. That is a legacy future generation will thank us for.

Thank you for the opportunity to testify today, and for your interest and concern for the effects of dredged material on living marine resources.

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