

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

Statement of Congressman Christopher H. Smith

Friday, November 5, 1999

Resources Subcommittee on Fisheries Conservation, Wildlife and Oceans Hearing on the Dumping of Dredged Materials

Mr. Chairman, I would like to thank you for convening this very important hearing. We have worked together in the past to clean up the coastal waters along the Jersey shore and once again we are fighting an ill-conceived proposal by the Army Corps of Engineers and the Environmental Protection Agency (EPA) which would permit the dumping of contaminated dredge spoils from New York just six miles off of New Jersey's Sandy Hook.

The impact of these contaminated dredge spoils on the New Jersey fishing industry and tourism industry cannot be understated. Charter boat operators, commercial fishermen, and the weekend recreational fishermen are all concerned about the potential for resumed dumping of contaminated materials off the Jersey Shore. If these contaminated materials are dumped off the Jersey Shore, it will fuel public fears about the cleanliness and safety of our beaches and ocean. Once a public perception is created that food products are unsafe and beaches are not clean, it could take decades to rebuild the customer base.

In my district alone, the local fishermen joined the fight in the early 1990s to close the infamous Mud Dump that lies off of Sandy Hook. Consequently, they felt that the closure of the Mud Dump and the creation of the Historic Area Remediation Site (HARS) in 1997 would put an end to concerns that the product of their hard work out on the open seas was potentially tainted with dioxins and other harmful contaminants. As one who has enjoyed New Jersey seafood on countless occasions, I am worried that one of our state's best known products may suffer from the actions of the federal government if this dredge material is allowed to be dumped.

Commercial fishing is important to the New Jersey economy. In Point Pleasant Beach, New Jersey, a shore community within the 4th Congressional district, the Fishermen's Dock Cooperative is one of the town's largest employers and generates \$4-\$5 million annually in revenue. Jim Lovgren, a constituent who is here today as an expert witness, and the 16 other members of the Co-Op contribute \$28 million when one takes into account the roles of the wholesaler, the retailer, and finally the consumer. During the peak season, the Co-Op employs up to 100 people who work on up to 40 boats. These men and women cannot make a livelihood if the fish they catch are contaminated or if the lobster pots they bring up from the ocean floor have been covered in contaminated silt.

Party and charter boat operators are also justifiably concerned about the Army Corps' proposed permit. The Corps should not go along with the EPA's flawed assertion that the 90,000 tons of dredge spoils from the

Castle Astoria Terminals in New York are "clean." The materials are not clean by any common-sense definition of the term. Boat operators will be fighting a perception that the waters where they are taking their customers for a day fishing trip are contaminated, and this perception will not be unwarranted.

The Administration's proposal to permit 90,000 tons of contaminated dredge soil to be placed on the Historic Area Remediation Site (HARS) flies in the face of the July 1996 announcement by Vice President Gore that dumping of contaminated dredge material at the site would end in September of 1997. The Vice President's announcement was celebrated by the EPA with much fanfare. It was presented as a ban, an end, a prohibition on the dumping of toxic and contaminated dredge material from both the New Jersey and New York side of the harbor. The announcement was not packaged as a moratorium, a suspension, or a dumping hiatus of unclean materials. They promised that only clean or non-toxic mud would be permitted at the site.

Now they want to fudge the issue and debate what the definition of "clean" is. Was this 1996 announcement nothing more than a cheap campaign ploy? If the Administration cannot be trusted to keep their word, I believe Congress must take action to ensure that New Jersey's environment is not compromised.

In 1997, the mud's toxicity was tested on two sediment-dwelling species (shrimp-like amphipods and mysids). The mud killed 15% more amphipods than "clean mud." Despite the significant toxicity to amphipods, EPA guidance only considers the mud "toxic" if it kills 20% more amphipods than "clean mud." But we should not be just concerned with the lethal effects to marine life but also the long-term chronic effects. It is this issue which affect a fish's ability to reproduce and thrive. If 15% of the fish will be killed by this dredge material, how many additional fish will be injured or mutated? These questions need to be answered by the EPA in collaboration with the National Oceanic Atmospheric Agency (NOAA). The EPA does not use chronic toxicity tests for whole sediment, so this mud's chronic toxicity is unknown. For the EPA to renege on its letter of agreement and change the definition of "clean" or Category 1 materials is unconscionable.

The EPA can say 'black' is 'white' and 'toxic' is 'clean,' but merely twisting the English language does not change the underlying reality that this material is harmful to fish and harmful to the environment. Backdoor dumping is unacceptable and it will not go unnoticed by New Jersey residents.

The fisheries habitat off of Sandy Hook, as elsewhere, are very fragile and as one boat operator told me, no one wants dead fish or damaged fish coming up in their nets or on their lines. The fishing industry has lost unknown millions in revenue because of the careless waste disposal practices of the past which have depleted the marine habitat and have left the remaining fish with contaminants which have posed a health risk to the public. No one wants to go to the local fish market or grocery store and buy fish with warning labels. Furthermore, we have seen a drop in various fish populations including whiting, cod, fluke, and flounder. Since ocean dumping was banned, the ocean has been cleaned up and some fish populations have made a comeback, such as the striped bass. However, any progress that we have seen will be stymied by the essential reopening of the Mud Dump and the placement of dirty dredge spoils at the HARS site.

To provide a snapshot of how the contaminated spoils will affect just one type of marine life, I would like to describe how the spoils affect lobster fishermen. These fishermen place their lobster pots on the ocean floor. During a storm, the turbulence of the currents will move the contaminated sludge into the lobster pots, thus suffocating the lobsters. However, the contaminated spoils do not just contaminate the lobster pots, they also damage the ocean floor itself. As scavengers, lobsters do not thrive when the ocean floor is covered in contaminated silt and not the sand where they normally thrive. Thus, their ability to gather nourishment is severely hampered.

Rather than redefining the word "clean", the EPA and the Army Corps should require dredgers on the New York side of the harbor to treat contaminated sediments until they meet universally accepted and sound environmental standards. On our side of the harbor, New Jersey has spent state and federal dollars to turn contaminated dredge spoils into reusable resources. This is the course we had hoped the Administration had set itself upon with the announcement of closing the Mud Site in 1997. To reopen the site to accepting questionable levels of deadly toxins, when proven and effective sediment treatment options are available, would turn back the clock to the dark days when medical waste and needles were washing ashore. It took our shore communities many years to recover from those incidents. The EPA and the Army Corps' policy, if left unchecked, will endanger the ocean's wildlife, shellfish, and marine mammals and consequently New Jersey's commercial and recreational fishing industries.

I stand ready to work with my colleagues in the House to use whatever legislative avenues are available to block this proposal that would roll back environmental progress and the livelihood of countless New Jersey fishermen and their families.

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